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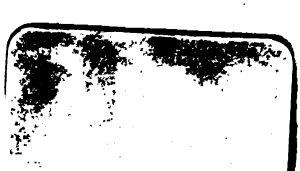

THE

METROPOLITAN

INTERMENTS ACT, 1850,

WITH

INTRODUCTION, NOTES,

AND

APPENDIX.

BY

WILLIAM CUNNINGHAM GLEN, Esq.

BARRISTER-AT-LAW.

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INTRODUCTION.

THE Metropolitan Interments Act, 1850, as affecting a concentrated population of upwards of two millions of persons, is, in a social point of view, one of the most important statutes which has for many years received the sanction of the legislature. The injurious effects, moral and physical, produced by the practice of interring the bodies of the dead in burial grounds surrounded by the habitations of the living, as well as in churches and chapels, and the scenes of revolting desecration and profanation of the graves and remains of the dead which were frequently witnessed in the crowded burial grounds of London, have from time to time been forcibly brought under the notice of the public during the last ten or twelve years. Public attention was first called to the subject, by Mr. George Alfred Walker, a Surgeon residing in Drury Lane, who in 1839 published his well-known work, "Gatherings from Graveyards." Mr. Edwin Chadwick, C.B. afterwards, by direction of Sir James Graham, Bart., at that time Secretary of State for the Home Department, drew up a valuable report, in which he detailed at great length the results of an extensive inquiry which he made into the practice of interment in towns, and the conclusions which he came to in regard to it. That report was presented in 1843, but

although extramural sepulture was one of the chief points to which the attention of the Health of Towns Commission and Sanitary Associations has since that time been continually directed, it was not till the appointment of the General Board of Health that any decisive step was taken to abolish the existing practice. That board was directed by the statute (12 & 13 Vict. c. 3), to cause inquiry to be made into the state of burial grounds, and to frame, if necessary, a scheme to be submitted to Parliament for the improvement of interment in towns. After consulting the evidence previously collected respecting the practice of interment, and investigating the subject anew with reference to the most recent facts and experience, the board, on the 15th February, 1850, presented their report to Her Majesty. From the considerations and evidence therein set forth, the board stated that they had arrived at the following conclusions, which they submitted as the foundation of a general scheme for extramural sepulture:—

"1. That, with a view to remedy the evils of intramural interment, as at present generally practised, it will be necessary to obtain separate Acts for London and the country.

"2. That, after the passing of the Act for London, all interments in churches and within the precincts of the metropolis, except in special cases, under licence issued by the metropolitan interment commission, should, as soon as the necessary preliminary arrangements are completed, be strictly forbidden.

"3. That public burial grounds be provided at a suit-

able distance from the metropolis; that, with a view to prevent the near approach of the population to such burial grounds, no new dwelling-houses be permitted within a distance proportioned to the size of the cemetery and the number of interments for which it is calculated; and that, in order to render possible the advantages of extramural interment, without, at least, enhancing the cost to the poor, to secure the proper decencies of burial, and to put an end to the injurious influence to health occasioned by the careless and unchecked disposal of bodies, it be, with the exceptions above referred to, unlawful to inter in any other place than the public burial grounds within the prescribed precincts.

"4. That, considering the river as a highway passing through the largest extent of densely-peopled districts, the facilities for establishing houses of reception on its banks, the conveniences arising from the shorter distances within the larger portion of the same area for the removal of the bodies to such houses of reception, the advantages of steam-boat conveyance over that by railway in respect to tranquillity, and the avoidance of any large number of funerals at any one point at any one time, and of any interference with common traffic and with the throng of streets; and, lastly, taking into account its great comparative cheapness, it is desirable that the chief metropolitan cemetery should be in some eligible situation accessible by water-carriage.

"5. That it be unlawful to inter in any burial ground more than one corpse in one grave.

"6. That the price of funerals be regulated according to a series of scales or classes; and that the whole expense of each funeral be included in the charge fixed for its class, and be paid for in one sum.

"7. That, it being essential to the success of the proposed improved practice of interment that it be administered on one system, under one responsible authority, all public burial grounds and the whole arrangement for burial be intrusted by commission to a small body, not exceeding five, of whom not less than one should be paid, specially qualified and responsible.

"8. That in every cemetery there be a part consecrated and a part unconsecrated, and that in the consecrated part there be erected a church adapted to the purpose, and fitted also for full services according to the doctrine and discipline of the Church of England; and that in the unconsecrated part there be erected a commodious chapel.

"9. That the new consecrated grounds be under the same ecclesiastical jurisdiction in matters spiritual, and in respect to the performance of the service and the superintendence of the chaplains, as the parochial burial grounds for which they are to serve as substitutes now are; that the inhabitants retain the same right of sepulture as they would have had in their respective burial grounds, subject to the general provisions which may be necessary for the public health and the convenience of sepulture; and that the incumbents have the right of performing the burial service for any of their parishioners in the public cemetery, subject to the regulations established for the same.

"10. That, inasmuch as the fees and voluntary offerings paid to the clergy constitute one of the least of the charges incident to interment, and at the same time form in some instances almost the whole, and in many instances the greater part, of the funds on which they have been accustomed to rely, provision be made for compensation to the benefice, on account of the receipt of fees for interments, on the average of three years before the passing of the Act.

"11. That compensation be made to the proprietors of private burial-grounds and to the holders of cemeteries established by Act of Parliament according to the award of juries.

"12. That provision be made for placing the existing burial-grounds under such regulation as may be most conducive to the public health and advantage.

"13. That, although, if the whole work were to be done afresh for the first time, one part of a general scheme of extramural-cemeteries would have included the formation of corresponding sets of intramural officers to receive orders, to give instructions, to collect and enforce payments, and to transact other general business, yet, to avoid the unnecessary creation of offices, it be provided that the present parish clerks or sextons, or both, as the case may be, should be retained, and their offices made use of for maintaining the parochial connexion with the cemeteries.

"14. That the whole immediate outlay for carrying into effect this scheme may be obtained without any aid from the Treasury, and without the levying of any new rate, in the following way: that is to say, by

loan; the principal and interest of such loan to be defrayed out of the receipts of the cemeteries, security being given by Act of Parliament for making good from the rates whatever deficiency may occur, should there be eventually any."

A bill founded upon this scheme was accordingly prepared and brought into the House of Commons by Sir George Grey, Principal Secretary of State for the Home Department, and Lord Seymour, the Chief Commissioner of the General Board of Health. The measure, after meeting with considerable opposition from parties interested in the continuance of the existing mode of sepulture, and undergoing some few alterations, which, however did not affect its main principles, has since become law; and, in the words of the board, we may now confidently hope that within a few months the whole of the intramural interments will be discontinued, and a system of extramural sepulture substituted; and that, if the principle developed in the new statute be properly adhered to, within a reasonable time the whole practice will be elevated, not only beyond the least objectionable practice in this country, but beyond the best practice which the board have found and examined on the Continent.

It will be convenient to consider the provisions of the statute in their exact order, so that a clear view may be at once obtained of the nature and scope of its provisions.

The first section declares "the Metropolitan Burial District" to consist of the cities and liberties of London and Westminster respectively, the borough

of Southwark, and the parishes, townships, and precincts comprised in the schedule. The district will therefore include the area which is surrounded by the parishes of Hammersmith, Kensington, Paddington, St. Marylebone, Hampstead, Stoke Newington, Bow, Limehouse, on the Middlesex side of the Thames; and Plumstead, Woolwich, Charlton, Greenwich, Camberwell, Lambeth, Streatham, Tooting, and Barnes, on the Surrey side of Hammersmith Bridge.

Sections 2—5 empower the General Board of Health to act in the execution of the Act, and authorizes the appointment of an additional member and other officers of the board, which is incorporated and is to have perpetual succession; but the additional member and officers appointed under the Act are not to hold office after the expiration of the period for which the Public Health Act, 1848, provides the board shall be continued, namely, five years from the 31st of August, 1848, and thenceforth until the end of the then next session of Parliament.

The board are then empowered to provide burial grounds, and to enlarge them if necessary, and to purchase by agreement any lands which it may appear to them expedient to purchase for such purpose, and if they see fit to take by agreement or otherwise all or any of the existing cemeteries belonging to public companies, subject to certain subsisting rights; but before purchasing any land the board must give notice by advertisement, inviting tenders by persons willing to sell lands for the purposes for which they are required by the board.

The board having provided the burial grounds are then to enclose and lay them out in such manner, and to erect and make therein such buildings and other works as may appear to them fitting and proper, and to build in each ground a suitable chapel for the performance of the burial service according to the rites of the United Church of England and Ireland, which chapel may be consecrated by the Lord Bishop of the diocese, and is then, as well as the consecrated portion of the burial ground, to be subject to his jurisdiction.

The board are to appoint chaplains to officiate in the burial grounds, who are to be licensed by, and be subject to, the bishop of the diocese. But, though chaplains are appointed, the incumbent of the parish from which any body may be brought may, by himself or his curate, upon giving notice, perform the burial service over the body where he desires to do so; and any other clerk in holy orders, subject to the rights of the incumbent and the regulations of the board, may in like manner perform the service.

The eleventh section requires that a portion of every burial ground provided by the board, shall remain unconsecrated: and gives authority to the board to build thereon a suitable chapel for the performance of funeral service; and portions of existing cemeteries which are unconsecrated are to remain so, power being given to the board, if they think it necessary, to enlarge any chapel thereon.

The board, when they have provided a burial ground, and made such arrangements as they may think necessary for the interment of the dead, and after consecra-

tion of the portion requiring to be consecrated, are to give notice in the *London Gazette* that interments may be made in such ground, and afterwards interments may be made therein under the Act.

The next provision of the Act relates to the closing of the old burial grounds of London and the suburban parishes within the metropolitan burial district. The Nuisances Removal and Diseases Prevention Act, 1849, indeed, provided for the shutting up of burial grounds in cases where, after inquiry by a superintending inspector, the general board of health might deem it expedient to prohibit any interments therein. But proceedings taken under that Act to shut up a metropolitan burial ground belonging to a body of dissenters proving unsuccessful, the authorities have not yet succeeded by legal measures in closing any of the burial grounds most dangerous to health. But this is a class of nuisances dangerous to public health, for the immediate abatement of which full and complete powers are now conferred upon the general board of health. The 13th section of the Act empowers the board, whenever they are of opinion that interment within the metropolitan burial district (otherwise than in the burial grounds provided under the Act), should be discontinued wholly or subject to any exceptions, to report their opinion to her Majesty; who may thereupon, with the advice of the privy council, order, after a time to be mentioned, interment in the churches, chapels, and churchyards, and other burial places reported upon, to be either wholly or in part discontinued; and that non-paro-

chial burial grounds in which the practice of interment has been so discontinued, shall vest in the board, who are to cause them to be suitably fenced in, in order to secure due respect to the bodies interred therein, and for protecting the public health.

After publication in the *Gazette* of the order of Her Majesty in council, any one who shall bury any body, or in anywise assist in the burial of any body in any church, chapel, churchyard, or burial place, in any burial ground in which interments are prohibited, is declared guilty of a misdemeanor, and may be punished accordingly. But authority is given to grant licence for burial in any church, or chapel, or vault in which such right has been acquired by virtue of any faculty legally granted, or by usage or otherwise, and also in cases where any exclusive right of interment in any cemetery or burial ground has been purchased or acquired before the passing of the Act. And it is expressly enacted, that nothing in the Act shall extend to prevent the interment in the cathedral church of *St. Paul's, London*, and the collegiate church of *St. Peter's, Westminster*, of the body of any person, where Her Majesty, by any writing under her royal sign manual, shall signify her pleasure that the body be so interred.

By the custom of England, every person has a right of sepulture in the churchyard of the parish in which he dies; but, ordinarily, a person cannot be buried in the churchyard of any other parish, unless with the consent of the incumbent and churchwardens. In de-

priving the inhabitants of London of this common law right, another right has been substituted for it, by the fourteenth section of the Act; namely, the right of sepulture in burial grounds provided under the Act.

The intention of the Act is to do away entirely with the system of trading as applied to burial grounds, whether such grounds be the property of individuals or public companies. It therefore provides a mode of awarding compensation to such individuals and companies, and also secures them from any interference with their rights until the compensation has been paid.

The feelings of the relatives of deceased persons buried in existing burial grounds have also been consulted; for it is provided that the bodies of such deceased persons may, with the consent of and subject to the regulations of the general board of health, be removed to and interred in any burial ground provided under the Act. Though the proposal of the general board that not more than one body shall be buried in the same grave has not been adopted, the Act nevertheless empowers the board to make regulations from time to time as to the depth and formation of the graves and places of interment, and generally as to all matters connected with the good order af the burial grounds.

After providing for various matters of detail with respect to fees, regulations, &c., the Act proceeds to the establishment of reception houses for the dead. Mr. Chadwick, in his interesting report before alluded to, in reference to this subject, states that the most

predominant of the physical, if not of the moral evils which follow the train of death, to the labouring classes, being the long retention of the corpse in their one room, the means of altering this practice claims priority in the consideration of remedies.

When it is considered that an immense proportion of the population of the poorer classes in the metropolis live in a single apartment, which serves as their bedroom, their living room, their kitchen, their washhouse, and in not a few cases their workshop also, some idea may be formed of the distressing as well as dangerous situation in which the survivors are placed when a death occurs in the family, from their total inability to procure suitable accommodation for the corpse, until it is removed for interment. Mr. Chadwick instances numerous cases in which disease and death were spread by the family living in the same room, and frequently sleeping on the same bed, with the sick person, labouring, it may be, under a contagious or infectious disorder; and afterwards retaining the body with its noxious exhalations in a small room badly ventilated, and often with a fire in it, the whole of the survivors breathing the noxious gases evolved from the corpse. It must be obvious to the most careless thinker, that the liability of the mass of a crowded population to be affected by the pestiferous influence of a corpse retained amongst the living, is not only dangerous to those immediately in contact with it, but also to the public, amongst whom the seeds of disease are freely sown by communication with the survivors. Mr. Chadwick has forcibly and truthfully

touched upon the moral degradation, and the evils attending the practice of retaining the bodies of the dead amongst the living, in the following passage which is extracted from his report on interments :—

"The duty which attaches to male relations, or which a benevolent pastor, if there were the accommodation, would exercise on the occurrence of the calamity of death to any member of a family, is to remove the sensitive and the weakly from the spectacle, which is a perpetual stimulus to excessive grief, and commonly a source of painful associations and visible images of the changes wrought in death, to haunt the imagination in after-life. When the dissolution has taken place under circumstances such as those described, it is not a few minutes' look after the last duties are performed and the body is composed in death and left in repose, that is given to this class of survivors, but the spectacle is protracted hour after hour through the day and night, and day after day and night after night, thus aggravating the mental pains under varied circumstances, and increasing the dangers of permanent bodily injury. The sufferings of the survivors, especially of the widow, are often protracted to a fatal extent. To the very young children, the greatest danger is of infection in cases of deaths from contagious and infectious disease. To the elder children and members of the family and inmates, the moral evil created by the retention of the body in their presence beyond the short term during which sorrow and depression of spirits may be said to be natural to them, is, that familiarity soon succeeds, and

respect disappears. These consequences are revealed by the frequency of the statements of witnesses, that the deaths of children immediately following, of the same disease of which the parent had died, had been accounted for by 'the doctor,' or the neighbours, in the probability that the child had caught the disease by touching the corpse or the coffin, whilst playing about the room in the absence of the mother. Dr. Reicke, in the course of his dissertation on the physical dangers from exposure to emanations from the remains, mentions an instance where a little child having struck the body of the parent which had died of a malignant disease, the hand and arm of the child was dangerously inflamed with malignant pustules in consequence. The mental effects on the elder children or members of the family of the retention of the body in the living room, day after day, and during meal times, until familiarity is induced,—retained, as the body commonly is during all this time in the *sordes* of disease, the progress of change and decomposition, disfiguring the remains and adding disgust to familiarity, —are attested to be of the most demoralizing character. Such deaths occur sooner or later in various forms in every poor family; and in neighbourhoods where there are no sanitary regulations, where they are ravaged by epidemics, such scenes are doubly familiar to the whole population.

"Astonishment is frequently excited by the cases which abound in our penal records indicative of the prevalence of habits of savage brutality and carelessness of life amongst the labouring population; but

crimes, like sores, will commonly be found to be the result of wider influences than are externally manifest; and the reasons for such astonishment, will be diminished in proportion as those circumstances are examined which influence the minds and habits of the population more powerfully than precepts or book education. Among these demoralizing circumstances which appear to be preventible or removable, are those which the present inquiry brings to light. Disrespect for the human form under suffering, indifference or carelessness at death,—or at that destruction which follows as an effect of suffering—is rarely found amongst the uneducated, unconnected with a callousness to others' pain, and a recklessness about life itself. A known effect on uneducated survivors of the frequency of death amongst youth or persons in the vigour of life, is to create a reckless avidity for immediate enjoyment. Some examples of the demoralization attendant on such circumstances cannot but be apparent in the evidence arising in the course of this inquiry into other practices connected with interments.

"On submitting the above to a friend, a clergyman, whose benevolence has carried him to alleviate the sufferings in several hundred death-bed scenes in the abodes of the labouring classes, and who has been present, perhaps, at every death in his own flock, in a wretchedly crowded parish, he writes in the following terms his confirmation:—

"'The whole of this I can testify, from personal knowledge, to be just. With the upper classes, a corpse excites feelings of awe and respect: with the

lower orders, in these districts, it is often treated with as little ceremony as the carcase in a butcher's shop. Nothing can exceed their desire for an imposing funeral; nothing can surpass their efforts to obtain it; but the deceased's remains share none of the reverence which this anxiety for their becoming burial would seem to indicate. The inconsistency is entirely, or at least in great part, to be attributed to a single circumstance—that the body is never absent from their sight; eating, drinking, or sleeping, it is still by their side, mixed up with all the ordinary functions of daily life, till it becomes as familar to them as when it lived and moved in the family circle. From familiarity it is a short step to desecration. The body, stretched out upon two chairs, is pulled about by the children, made to serve as a resting-place for any article that is in the way, and is not seldom the hiding-place for the beer-bottle or the gin if any visitor arrives inopportunely. Viewed as an outrage upon human feeling, this is bad enough; but who does not see that when the respect for the dead, that is, for the human form in its most awful stage, is gone, the whole mass of social sympathies must be weakened—perhaps blighted and destroyed? At any rate, it removes that wholesome fear of death which is the last hold upon a hardened conscience. They have gazed upon it so perpetually, they have grown so intimate with its terrors, that they no longer dread it, even when it attacks themselves; and the heart which vice has deadened to every appeal of religion is at last rendered callous to the natural instinct of fear.'

"That it is possible by legislative means to
progress of this dreadful demoralization, whi
if no further heed be taken of it, go on
increased crowding of an increasing populati
it is possible to abate the mental and physic
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acceptable and benign and elevating influence
impressive occasions, may be confidently affir
will in a subsequent stage of this report be end
to be shown by reference to actual example
cessful measures."

Evils of such a magnitude need, however, n
exist, for the general board of health are
powered to build or otherwise provide, in su
as they may think fit, houses for the recep
care of the bodies of the dead previously to
interment, and to make arrangements for the
and care of such bodies therein, and to ap
officers for such houses of reception. The b
also empowered to appoint medical or other
who, in the case of deaths within the distri
when the persons having the care of the fu
desire, cause the body of the deceased to be
removed to one of the houses for the receptio
dead.

The delay of interment, Mr. Chadwick obs
greatly increased by the expense of the funerals
instances another cause which tends to del
ment, namely, the fear of the body being buri
life is extinct, which it is said has in some well
ticated instances occurred during the extensiv

lence of an epidemic disease; a state of coma or lethargic sleep induced by the disease being mistaken by the attendants for death. There can be no question that the chance of such a painful circumstance occurring is extremely rare; but, as Mr. Chadwick further observes, the existence of the painful feeling of the possibility of such an event, even if the apprehended possibility were utterly unreal, is as valid ground for the adoption of measures to prevent and alleviate the painful feeling as if the danger were real and frequent. On this subject, Mr. Bentley (Encyclopædia of Practical Medicine, vol. 3rd, 316) states as follows: "Allowing for much fiction, with which such a subject must ever be mixed, there is still sufficient evidence to warrant a diligent examination of the means of discriminating between real and apparent death. As respiration is a function most essential to health, and at the same time the most apparent, the cessation of it may be considered as an indication of death. But as in certain diseases and states of exhaustion it becomes very slow and feeble, and so to the casual observer to appear quite extinct, various methods have been adopted for ascertaining its existence. Thus, placing down or other light substances near the mouth or nose; laying a vessel of water on the chest, as an index of motion in that cavity; holding a mirror before the mouth, in order to condense the watery vapour of the breath; have all been proposed and employed, but they are all liable to fallacy. Down or whatever substance is employed, may be moved by some agitation of the surrounding air; and the surface

of the mirror may be apparently covered by the condensed vapour of the breath, when it is only the fluid of some exhalation from the surface of the body. We therefore agree fully with the judicious observations Dr. Paris on this subject:—'We feel no hesitation in asserting, that it is physiologically impossible for a human being to remain more than a few minutes in such a state of asphyxia as not to betray some sign by which a medical observer can at once recognize the existence of vitality; for if the respiration be only suspended for a short interval we may conclude that life has fled for ever. Of all the acts of animal life, this is by far the most essential and indisputable. Breath and life are very properly considered in the scriptures as convertible terms, and the same synonym, as far as we know, prevails in every language. However slow and feeble respiration may become by disease, yet it must always be perceptible, provided the naked breast and belly be exposed; for when the intercostal muscles act, the ribs are elevated, and the sternum is pushed forwards; when the diaphragm acts the abdomen swells. Now this can never escape the attentive eye; and by looking at the chest and belly we shall form a safer conclusion than by the popular methods which have been usually adopted.'"

On the Continent, at *Munich*, *Frankfort*, and other *German* cities, houses have been established for the reception and care of the dead until their interment; and the objects of those institutions are thus summed up in the regulations which are applicable to the house at *Munich*:—

"Whereas it is of importance to all men to be perfectly assured that the beings who were dear to them in life are not torn from them so long as any, the remotest, hope exists of preserving them,—so death itself becomes less dreadful in its shape when one is convinced of its actual occurrence, and that a danger no longer exists of premature interment.

"To afford this satisfaction to mankind, and to preclude the possibility of any one being treated as dead who is not actually so; to prevent the spread of infectious disorders as much as possible; to suppress the quackeries so highly injurious to the health of the people; to discover murders committed by secret violence, and to deliver the perpetrators over to the hands of justice,—is the imperative duty of every wise government; and in order to accomplish these objects, every one of which is of the greatest importance, recourse must be had to the safety, that is to say the medical police, as the most efficient means, by a strict medical examination into the deaths occurring, and by a conformable inspection of the body."

The practice of sending the bodies of the dead to reception houses before interment, being opposed to existing customs in this country, it will be the effect of time to introduce into England; but when it is found that the immediate removal of the body from the habitation of the living, lessens the sufferings of the survivors, whilst it at the same time in some measure assuages their grief, and is not inconsistent with the outward manifestation of respect to the remains of the deceased, and that the possibility of premature inter-

ment is thereby entirely removed, we may confidently hope that the boon will be cheerfully accepted by the class of persons for whose more immediate benefit the reception houses are to be established.

The next provision of the Act relates to the new arrangements which are to be made for conducting funerals at a fixed charge. There are few families which have not suffered more or less from the exactions of the undertaker's bill, on the occasion of the funeral of a deceased member of the family. Such exactions come at a time when from their bereavement the relatives and friends are rendered almost incapable of self-protection; and indeed the urgency which exists for the performance of the last sad duties to humanity, as well as a feeling of decency, precludes the friends from bargaining as for an article of commerce, or from seeking to find a respectable tradesman who may have a reputation for honesty of dealing, and for moderate charges. The consequence of this has been, that funeral charges have become extortionate in the highest degree, and bear no proportion whatever to the intrinsic value of the services actually rendered. It is obvious that an individual, whether he be rich or poor, cannot always protect himself from this extortion, or against the unnecessarily expensive, and in the majority of instances unseemly, and often ridiculous funereal customs which are maintained against his better judgment and wishes. Mr. Chadwick has well observed, that in considering this subject, the arrangements and consequent expenses of the funerals of the wealthy are of importance, less perhaps for themselves than as governing by example

the arrangements and expenses of the poorest classes, even to the adoption of such arrangements, and consequently of expensive outlay, as to have hired bearers and mutes with silk fittings even at the funerals of common labourers; and he truly adds, that the expenditure by the wealthy in compliance with the supposed demands at which their own taste revolts, for a transient effect which is not gained, would suffice to produce permanent effects of beneficence and taste worthy of their position in society.

The sixth recommendation submitted by the general board of health, in their report on extramural sepulture, was, that the price of funerals be regulated according to a series of scales or classes; and that the whole expense of each funeral be included in the charge fixed for its class, and be paid for in one sum. This recommendation has been adopted to its fullest extent, for by the 28th section of the Act the board are empowered to invite and receive tenders for contracts for the undertaking of funerals according to classes, arranged with reference to the nature and amount of the matters and services to be furnished and rendered, but so that in respect to the lowest class the funeral may be conducted with decency and solemnity; and to enter into contracts in accordance with such tenders and with such stipulations as may appear necessary for insuring the decent performance of the funerals. With a view to preserving still further fixed and uniform charges, the board are also empowered to contract with railway companies for the carrying out

of bodies in properly constructed carriages, on the line of railway of such company, along with the mourners, to any burial ground provided under the Act. If, on the other hand, a cemetery be established in a situation convenient for water carriage, the contractors for conducting funerals at fixed charges will also contract to have the bodies and mourners conveyed by appropriate river steam vessels to the place of sepulture.

The Act provides for various measures of detail, in regard to compensation for loss of fees, and individual rights, mortgages and registers.

A special provision is made for the levying a rate not exceeding a penny in the pound in any one year, on property assessed to the county rate. But this rate is only to be levied in case a deficiency of other payments to defray the expenses of the board in respect to carrying out the Act, and to provide for the payments in respect of moneys borrowed under the Act, should arise. In reference to this rate it is satisfactory to find that the board have expressed a very confident opinion, that along with equitable arrangements as to compensations, and even with a considerable reduction on the existing charges for interment, there will be no deficiency to be defrayed by rates.

The general board of health are to cause accounts to be kept which are to be open to the inspection of the ratepayers at all seasonable times, and are to be balanced up to the 31st December in each year, and audited by the auditors of public accounts; the board are to make an annual report to one of her Majesty's

principal secretaries of state of their proceedings, which is to be laid before parliament along with an abstract of the accounts of the board.

The sections of the Cemeteries Clauses Act, 1847, which relate to granting exclusive rights of burial, monumental inscriptions, and the protection of the cemetery, are incorporated with the present statute.

By the establishment of the new burial grounds, considerable tracts of land which now pay poor's and other rates will become vested in the board of health; and as considerable loss would be caused to the parishes in which such lands may be situated, if, by reason of their not being beneficially occupied, that is, not occupied so that a direct profit is derived from them by any one, they were to cease to be rateable, it is provided by the Act that the general board shall from time to time be assessed and rated to all county parochial or other local rates for and in respect of the burial grounds provided under the Act, but not at a higher value or improved rent than the lands were assessed at for the year immediately preceding their being taken for burial grounds.

By the bill as it orginally stood it was proposed that the burial grounds should be exempt from all local rates, an arrangement which would have manifestly been unjust to the parish in which the burial ground might be situate, inasmuch as it would have been called upon to make a considerable sacrifice of rates for the benefit of other parishes using the burial ground for the interment of their dead.

The only other section of the Act which it is

deemed important to notice in this place is the 74th, which enables the incumbent and churchwardens of any parish to which a burial ground, locally situate in some other parish, belongs, to convey the chapel of such burial ground to trustees to be named by the incumbent and churchwardens of the parish within which the same is situate, upon such trusts for such last mentioned parish as to the bishop of the diocese may seem proper. This provision will remedy the anomaly and inconvenience which would result from a parish having a chapel belonging to it, situate at a distance and within another parish, with which it might not be connected in any cure of souls.

In conclusion, it will readily be seen that the magnitude of the evils to be dealt with under this statute, required measures of a more than ordinary stringent character. It is not to expected that the execution of those measures will not inflict pain or hardship on some individuals who may have relatives interred in existing burial grounds. But in the concluding words of the report of the general board of health, to such and to all others may be addressed a fervent hope that that board will be aided by judicious and generous co-operation, and supported by strong and enlightened public sympathy in rendering available the means which parliament has placed at their disposal for putting an end to the great and growing evils of intramural sepulture.

TEMPLE, W. C. G.

September, 1850.

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AN ACT

TO MAKE BETTER PROVISION FOR THE INTERMENT OF THE DEAD IN AND NEAR THE METROPOLIS.

5TH AUGUST, 1850.

SECT. 1. *London, Westminster, Southwark, and the places named in Schedule* (A.), *to form "The Metropolitan Burial District."*] Whereas it is expedient to make better provision for the interment of the dead in and near the metropolis: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that the cities and liberties of *London* and *Westminster* respectively, the borough of *Southwark*, and the parishes, townships, precincts, and places mentioned in the schedule (A.) to this Act (*a*), shall for the purposes of this Act be one district, to be called "The Metropolitan Burial District."

SECT. 2. *General board of health to execute this Act.*] And be it enacted, that the general board of health shall act in the execution of this Act; (*b*)

(*a*) See the schedule, page 66, which particularizes the limits of the district to which the provisions of the Act are applicable. The city of London parishes *without the walls*, although not expressly mentioned either in the Act or in the schedule, are included in the district, as well as the parishes *within* the walls.

(*b*) The Public Health Acts do not extend to the City of London or the liberties thereof, nor to the parts within the limits

Her Majesty may appoint an additional member.] and it shall be lawful for her Majesty, from time to time, by warrant under her royal sign manual, to appoint one member (*c*) of such board in addition to the members of such board which her Majesty may be authorized to appoint under any other Act or Acts, and at pleasure to remove the member so appointed;

Board incorporated.] and such board shall for the purposes of this Act be one body politic and corporate by the name of "The General Board of Health," and by that name shall have perpetual succession (*d*), and a common seal, and shall sue and be sued, and have power and authority (without any licence in mortmain) to take, purchase, and hold lands, tenements, and hereditaments for the purposes of this Act.

SECT. 3. *Power to board to appoint and remove assistant secretary, treasurer, &c.*] And be it enacted, that it shall be lawful for the said board from time to time

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of the commissions of sewers, dated 30th November and 4th December, 1847, nor to the parts subject to the jurisdiction of the commissioners acting in execution of the Act 5 Geo. 4, c. 100, for more effectually paving, lighting, watching, &c., the Regent's-park, and the several Acts extending the jurisdiction of those commissioners. Consequently the general board of health have no jurisdiction in any matter within the Metropolitan Burial District, other than they derive under this Act; or under "the Nuisances Removal and Diseases Prevention Acts, 1848, 1849," when the portions of those latter Acts which relate to the prevention of epidemic, endemic, and contagious diseases, are put in force by an order in council.

(*c*) This additional member will act in the execution of the general powers of the board, and not exclusively in carrying the provisions of this Act into effect.

(*d*) This does not perpetuate the powers of the board, but refers to the corporate character conferred upon it. See sect. 4.

to appoint or employ for the purposes of this Act (*e*), an assistant secretary, a treasurer, and such clerks and officers, and for and in each burial ground to be provided by the said board under this Act, a warden, and such assistants, grave-diggers, and other servants as they deem necessary, and to remove such assistant secretary, treasurer, clerks, wardens, officers, and servants, or any of them.

SECT. 4. *Appointments limited to duration of appointments under Public Health Act.*] And be it enacted, that no additional member of the said board to be appointed under this Act, and no assistant secretary, treasurer, or other officer to be appointed as aforesaid, shall hold his office after the expiration of the period for which "The Public Health Act, 1848," provides that the said general board of health shall be continued (*f*).

SECT. 5. *Board to provide offices.*] And be it enacted, that the said board shall provide such offices as they may think necessary for the purposes of this Act, and for providing such offices may purchase by agreement or take on lease any lands which may appear to them convenient for the same.

(*e*) It would appear that the Act contemplates the appointment of a staff of officers, for the purposes of this Act, distinct from the existing staff appointed under the General Board of Health Act. For the salaries of the new staff of officers, as well as of the additional member of the board, are to be paid out of the fees received under the Act (sect. 42,) whilst the salaries of the old staff are paid out of the consolidated fund.

(*f*) The duration of the Public Health Act is limited to five years from the 31st August 1848, and thenceforth until the end of the then next session of parliament.

SECT. 6. *Power to board to provide burial grounds, and enlarge them if necessary.*] And be it enacted, that the said board shall from time to time provide, in such places as, having regard to the public health, may appear to them expedient, and either within or without the limits of the district, burial grounds of sufficient extent for the decent interment of the bodies of all persons dying within the district (*g*); and it shall be lawful for the said board, from time to time, in case it appear to them necessary or expedient so to do, to enlarge any burial ground provided by them under this Act, and to make any road to such burial ground, or, with the consent of the owner of any existing road, or of the persons in whom the management thereof may by law be vested, to widen or improve such existing road, for facilitating the approach to such burial ground;

Power to purchase lands for burial grounds,] and for providing any burial ground under this Act, or enlarging any such burial ground, or making, widening, or improving roads or approaches thereto, it shall be lawful for the said board to purchase by agreement any lands which it may appear to them expedient to purchase for such purpose.

SECT. 7. *Power to board to purchase cemeteries.*] Provided always, and be it enacted, that for the pur-

(*g*) These burial grounds are to be provided for the interment of the bodies of persons dying *within* the district. But there is nothing in the Act to prevent the bodies of persons dying *beyond* the limits of the district being brought for interment to any such burial ground, but not as *of right*, unless they be parishioners or inhabitants; for the 14th section only gives the right of sepulture in the burial grounds established under the Act to the *parishioners and inhabitants* of the several parishes within the district.

poses of this Act the said board may, if they see fit, purchase and take by agreement or otherwise all or any of the cemeteries mentioned in the schedule (B.) to this Act (*h*), subject to the rights to graves, vaults, and monuments subsisting therein, and subject to such subsisting rights, and save as herein-after mentioned, all the provisions of this Act concerning burial grounds provided thereunder shall extend to the cemeteries purchased as aforesaid; provided that no such cemetery shall be taken otherwise than by agreement after the expiration of two years from the passing of this Act (*i*).

SECT. 8. *Before purchase of land for burial grounds the board to give six weeks notice by advertisement for tenders.*] Provided always, and be it enacted, that

(*h*) The cemeteries which the board will be empowered to purchase under this Act are the following: Highgate, containing 18 acres; Nunehead, 50 acres; Victoria Park, 11 acres; City of London and Tower Hamlets, Mile End, 30 acres; West of London and Westminster, Earl's Court, Brompton, 39 acres; South Metropolitan, Norwood, 50 acres; Kensal Green, 54 acres; and Abney Park, 30 acres; or together about 282 acres, of which only about 17 acres have as yet been used.

(*i*) Under this section the board is empowered to purchase the cemeteries in question; but if they do not do so within two years from the passing of the Act, that is, prior to the 5th August, 1852, they will be precluded from purchasing them, otherwise than by mutual agreement with the companies.

The Act does not specify in what manner the value of the interest of the companies in the cemeteries is to be ascertained. But it incorporates with it (see section 69), "The Land Clauses Consolidation Act, 1845," so for as respects such purchases, and compensation to persons interested in non-parochial burial grounds; and that Act provides for the matter being referred to arbitration, or to a jury when the parties cannot agree.

Section 75 provides for the dissolution of cemetery companies after the purchase of any of the cemeteries.

before the said board enter into any agreement for the purchase of any lands as aforesaid for the site of any burial ground, (save any such cemetery as aforesaid, or any land required for enlarging any such cemetery or burial ground), they shall give public notice, by advertisement to be inserted not less than twice in each of two daily newspapers published in *London* or *Westminster*, inviting tenders by persons willing to sell lands for the purposes for which the same are required by the said board; and no such agreement for purchase as aforesaid shall be entered into by the said board until the expiration of six weeks from the time of the insertion of the first of such advertisements (*j*).

SECT. 9. *Board to enclose and lay out burial grounds, erect buildings, and build chapels.*] And be it enacted, that it shall be lawful for the said board to enclose and lay out the burial grounds provided under this Act, in such manner, and to erect and make therein such buildings and other works, as may appear to them fitting and proper, and to build in every such burial ground a suitable chapel for the performance of burial service according to the rites of the united church of *England* and *Ireland*, or where there is any chapel already built, and consecrated according to the rites of the said united church, in any cemetery purchased under this Act, to enlarge such chapel, if it appear to the said board necessary so to do for the performance of such service; and every such chapel, and every burial ground provided under this Act, except such portion thereof as may not be intended to be used for

(*j*) See sect. 68, which requires the approbation of the commissioners of her Majesty's treasury to any purchase about to be made by the board when the purchase money exceeds 100*l*.

the burial of the dead according to the rites of the said united church, may be consecrated by the lord bishop of the diocese within which such chapel is situated; and every chapel consecrated according to the rites of the said united church in any burial ground provided under this Act, and the portion consecrated as aforesaid of every such burial ground, shall be subject to the jurisdiction of the said bishop, and no service shall be performed in the burial of the dead in the portion consecrated according to the rites of the said united church of any burial ground provided under this Act otherwise than according to the rites of such church (*k*).

SECT. 10. *Power to board to appoint chaplains, who shall be licensed by and subject to the jurisdiction of the bishop.*] And be it enacted, that the said board shall from time to time appoint so many clerks in holy orders as they may think necessary to be chaplains to officiate in the burial grounds provided under this Act, and such chaplains shall be licensed by and subject to the jurisdiction of the bishop of the diocese (*l*), and the consent of the incumbent of the parish in which any such burial ground may be situate shall not be required to the grant of any such licence, and every such licence shall be revocable by the said bishop when he thinks fit; and the said board may assign to such chaplains such duties in relation to the time and place

(*k*) See sect. 11, with respect to the unconsecrated portion of the burial ground.

(*l*) In the bill as originally introduced, it was proposed that the Bishop of London only should have spiritual jurisdiction over the cemeteries. But as the Act now stands, the bishop of the diocese in which the cemetery is locally situate has jurisdiction. See also s. 64, and Cemeteries Clauses Act, 1845.

of the performance of the burial service in the portions consecrated as aforesaid of the burial grounds provided under this Act as the said board may from time to time think fit; and the said board shall have power to remove such chaplains (*m*); provided always, that the incumbent of the parish from which any body is brought may, by himself or his curate, upon giving notice as herein-after mentioned (*n*), perform such service over such body, where he desires so to do, and, subject to the rights of such incumbent and the regulations of the said board, any other clerk in holy orders not prohibited by the bishop, nor under ecclesiastical censure, may perform such service.

SECT. 11. *A portion of each burial ground not to be consecrated.*] And be it enacted, that a portion of every burial ground provided under this Act shall not be consecrated as aforesaid, and the said board may build thereon a suitable chapel or chapels for the performance of funeral service; and so much of any of the cemeteries mentioned in the said schedule (B.) which shall be purchased under this Act as may not have been consecrated at the time of such purchase thereof, and may have been used or appropriated for the purposes of interment, shall remain unconsecrated, and where there is any chapel on such unconsecrated part of any such cemetery, the said board may, if they think necessary, enlarge such chapel for the performance of funeral service. (*o*)

(*m*) The bishop, by the first part of this section, is empowered to revoke the chaplain's licence, and that revocation would in effect remove him from his office.

(*n*) See sect. 14.

(*o*) As to interments in such portions of burial grounds, and fees, see sects. 15, 38.

SECT. 12. *Notice to be given in the London Gazette when a burial ground is provided under this Act.*] And be it enacted, that when the said board have provided any burial ground, and have made all such arrangements as they may think necessary for the interment in such ground of the bodies of the dead, and after the consecration of such portion thereof as may require consecration, they shall give notice in the *London Gazette*, that they have provided such burial ground, and that interments may be made therein; and after such notice interments may be made in such burial ground under this Act. (*p*)

SECT. 13. *Queen in council may, upon report of board, order discontinuance of interment in churchyards, &c.*] And be it enacted, that when the said board shall be of opinion that interment (otherwise than in the burial grounds provided under this Act) should be discontinued, wholly or subject to any exception or exceptions, in any part or parts of the district, they shall report to Her Majesty their opinion accordingly, and so from time to time when the said board shall be of opinion that interment (otherwise than as aforesaid) should be so discontinued in any part or parts of the district in which such interment has not been already ordered to be discontinued, or in any place excepted from any former order for the discontinuance of interment, they shall report to Her Majesty in like manner (*q*); and at any time after the

(*p*) This section refers to the existing cemeteries as well as to other burial grounds which may be provided by the board.

(*q*) It is important to observe that this section authorizes the shutting up of existing burial grounds, &c., notwithstanding the board may not have provided other burial grounds under the provisions of this Act.

presentation of any such report it shall be lawful for Her Majesty, by and with the advice of her privy council, to order that after a time mentioned in the order interment in the churches, chapels, and churchyards, and other burial places, and elsewhere within any part or parts in any such report or reports and in such order mentioned, of the district, shall be wholly discontinued, or shall be discontinued subject to any exception or exceptions mentioned in such order; and any such order may direct that the care of any non-parochial burial ground in which interment is ordered to be discontinued shall be vested in the said board, and may authorize such board to cause such ground to be fenced in such manner as the said board may think suitable, and otherwise to act in relation to such ground as may appear to such board fit and proper for securing due respect to the bodies interred therein, and for protecting the public health (*r*); and every such order shall be published in the *London Gazette;* provided that notice of every such report, and of the time when it shall please Her Majesty to order that the same be taken into consideration by the privy council, shall be published in the *London Gazette,* and shall be affixed on the doors of the churches or chapels, or on some other conspicuous places within the part or parts of the district to which such report relates, one calendar month, or, where any order made under "The Nuisances Removal and Diseases Prevention Act, 1848," directing the provisions of that Act for the prevention of epidemic, endemic, and contagious diseases to be put

(*r*) Sect. 36 provides for compensation being awarded to persons or sects interested in non-parochial burial grounds.

in force (*s*), is in force within such part or parts, then seven days at the least before such report is so considered.

SECT. 14. *Inhabitants of parishes comprised in the district, or within any part of the district, in which interment is ordered to be discontinued, to have right of sepulture in burial grounds provided under this Act.*] And be it enacted, that, subject to the provisions herein contained, and the regulations made under this Act, the parishioners and inhabitants of the several parishes and places within the district (after the time from which interment has been ordered to be discontinued in the whole district), or within any part or parts of the district in which interment has been ordered to be discontinued, after the time from which interment has been ordered to be discontinued therein, shall have the same rights of sepulture in the portions consecrated as aforesaid of the burial grounds provided under this Act as they respectively would have had in the burial grounds in and for their several parishes and places (*t*); and the incumbent of every

(*s*) The Act here referred to empowers the lords of Her Majesty's privy council to put its provisions for the prevention of epidemic, endemic and contagious diseases, in force for a period not exceeding six months, when any part of the kingdom shall appear to be threatened with or affected by any formidable disease of that nature.—See "Glen's Nuisances Removal and Diseases Prevention Acts, 1848 and 1849," third edition.

(*t*) This provision confers upon the inhabitants of the district the right of sepulture in the consecrated portions of the whole or any one of the burial places to be provided by the board, but this right will not *vest* in the inhabitants until "after the time from which interment has been ordered to be discontinued in the *whole* district."

such parish shall, by himself or curate, upon giving such notice as may be required in this behalf by any such regulations as aforesaid, have the same rights and authorities for the performance of religious service in the burial of the bodies of the parishioners or inhabitants of his parish in the portions consecrated as aforesaid of the burial grounds provided under this Act as if the same were burial grounds of such parish (*u*); and the parishioners and inhabitants and the incumbent of every such parish and place shall respectively have such rights as aforesaid, notwithstanding the exception from any order for discontinuance of interment of any burial ground or burial grounds, or right of burial in any burial ground or burial grounds, in or belonging to any such parish or place, unless in such order as aforesaid any burial ground or burial grounds so excepted be declared to be continued for such parish or place in lieu of all rights of the parishioners and inhabitants to sepulture in the burial grounds provided under this Act; and for the purposes of the enactments of the laws relating to the poor which concern the burial of the bodies of poor persons, and of all other enactments under which burials are authorized or directed to take place in the burial ground of or belonging to a parish or place, the burial grounds provided under this Act shall be deemed to be burial grounds of and belonging to the several parishes and places within the district (*v*).

(*u*) See the proviso to section 10.

(*v*) With respect to paupers, it is enacted by the 7 & 8 Vict. c. 101, s. 31, that the bodies of poor persons buried at the expense of the poor rates shall, unless otherwise desired by the deceased person during his or her life time, or the wife or husband or next of kin, be buried in the churchyard or other consecrated burial ground in or belonging to the parish or place in which the death may have occurred; hence this provision.

SECT. 15. *As to interments in unconsecrated portions of burial grounds.*] And be it enacted, that subject to the provisions herein contained, and the regulation made under this Act, the portion not consecrated as aforesaid of any burial ground provided under this Act shall be used for the interment of the bodies of persons dying within the district, when the relatives or other persons having the care and direction of the funerals desire to have such bodies so interred; and such bodies may be there interred in such manner, and with such religious service, rites, or ceremonies, as such relatives or persons having the care and direction of the funerals may think fit; and the said board may, upon the request of members of separate religious denominations or sects, and upon such terms and conditions, not inconsistent with the known tenets or usages of such religious denominations or sects, as the said board may think fit, permanently appropriate and set apart or cause to be enclosed separate parts of the portion not consecrated as aforesaid of any burial ground provided under this Act, to be used for the exclusive interment of the bodies of persons of such separate religious denominations or sects (*w*).

SECT. 16. *After publication of order for discontinuing interment, no burial to take place contrary thereto.*] And be it enacted, that after the publication in the *London Gazette* of any order of Her Majesty in council made under this Act ordering the discontinuance of interment, it shall not be lawful, after the time in such

(*w*) Under the latter part of this clause portions of burial grounds may be appropriated for the exclusive use of members of the Jewish persuasion and other sects.

With respect to the payment of fees for religious rites in unconsecrated ground, see sect. 38.

order mentioned, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere, within any part of the district in which interment has by any such order been ordered to be discontinued, except as in such order excepted, and except in the burial grounds provided as aforesaid, and as otherwise authorized by this Act (*x*); and every person who shall after such time as aforesaid bury any body, or in anywise act or assist in the burial of any body, in any such church, chapel, churchyard, or burial place, or elsewhere, within any such part as aforesaid of the district, except as in any such order excepted, and except in any burial ground provided as aforesaid, or as otherwise authorized by this Act, shall be guilty of a misdemeanor (*y*).

SECT. 17. *Saving of certain rights to bury in vaults, &c.*] Provided always, and be it enacted, that where by virtue of any faculty legally granted (*z*), or by usage or otherwise, there is, at the time of the passing of this Act, any right of interment in or under any

(*x*) See sect. 19 with respect to the operation upon existing cemeteries of the order in council authorized by this section.

(*y*) That is, after being legally convicted of the offence, which being one committed against the public any one can prosecute the offender.

(*z*) A faculty to be legal must have been granted by the ordinary, after public notice given to the parishioners of what was intended to be done under it. It must have been to a parishioner, and be annexed to a mansion within the parish. *Bryan* v. *Whistler*, 2 M. & R. 318; 8 B. & C. 288. It must be limited in the same manner as faculties for pews, "to the use of the family as long as they continue parishioners and inhabitants." *Magnay* v. *St. Michael*, 1 Hagg. R. 48. No exclusive right of burial in a vault can be granted by a rector, but only permission to bury therein at each particular time. *Bryan* v. *Whistler*.

church or chapel, or in any vault of any church, chapel, churchyard, or burial ground, and where any exclusive right of interment in any cemetery or burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for the said board from time to time, on application being made to them, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as the said board may think fit; but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who if this Act had not been passed might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this Act had not been passed.

SECT. 18. *Saving as to St. Paul's Cathedral and Westminster Abbey.*] Provided also, and be it enacted, that nothing herein contained shall extend to prevent the interment in the cathedral church of *Saint Paul's London*, or in the collegiate church of *Saint Peter's Westminster*, of the body of any person, where her Majesty, by any writing under her royal sign manual, shall signify her pleasure that the body be so interred (*a*).

SECT. 19. *Order to be suspended till compensation*

(*a*) This section appears to have reference only to interment in the *interior* of St. Paul's or Westminster Abbey. But under section 17 the board of health would be authorized to grant licence for the interment of the body of any person claiming during his lifetime a prescriptive or other right to interment within the precincts or in the cloisters of Westminster Abbey.

money is paid.] Provided also, and be it enacted, that where any such order of Her Majesty in council shall affect any cemetery mentioned in the schedule (B.) to this Act, and not previously purchased by the said board, the operation of such order as to such cemetery shall be suspended until the compensation in respect of the discontinuance of interment in such cemetery under such order, which may be payable under this Act to the company to which such cemetery belongs, has been paid; and upon payment of such compensation such cemetery shall vest in the said board, subject to the rights subsisting therein, so far as such rights are not inconsistent with such order as aforesaid or with the provisions of this Act.

SECT. 20. *Power to remove bodies to burial grounds provided under this Act.*] And be it enacted, that it shall be lawful for the relatives of any deceased person, with the consent of the incumbent or other person having the care or control of any church, chapel, churchyard, cemetery, or other place within the district in which the body of such deceased person has been interred, and with the consent of and subject to the regulations of the said board, and upon payment of such fees as may be fixed by the said board, to cause such body to be removed to and interred in any burial ground provided under this Act, without any faculty for that purpose (*b*).

SECT. 21. *Fees to be paid upon interments.*] And be it enacted, that there shall be paid upon all interments

(*b*) This section authorizes the exhumation of bodies already interred within the district, whether in a vault or in the open burial ground, and their removal for the purpose of re-interment to any of the burial grounds to be provided under this Act.

in the burial grounds provided under this Act such fees or sums as the said board shall from time to time fix in this behalf, with the approbation of one of Her Majesty's principal secretaries of state, and such fees or sums shall be paid to the wardens of such grounds, or such other officers of the said board as may be by them authorized to receive the same; and a table of such fees or sums shall be printed and published, and shall be fixed and continued on some conspicuous part of every such burial ground (*c*).

SECT. 22. *Management of burial grounds to be vested in the board.*] And be it enacted, that the said board shall provide for the maintenance, planting, decoration, and care of the burial grounds provided under this Act, and shall have the direction of the order and course in which such grounds and the several parts thereof shall be opened and used for the purposes of interment, and the times at which interments in such burial grounds may take place; and, subject to the provisions of this Act, the general management and control of such burial grounds shall be vested in and exercised by the said board.

SECT. 23. *Board may make regulations as to burial grounds and interments therein.*] And be it enacted, that the said board may make regulations from time to

(*c*) It is presumed that these fees are to be paid *previous* to the interment taking place. But the clause is defective in not providing for their recovery in the event of their not being so paid. This however the board may remedy, by the regulations which they are empowered to make under sect. 23, and they may also by those regulations prescribe the course to be adopted, in the event of the refusal to pay the fees after the body is brought to the burial ground and before interment.

time as to the depth and formation of graves and places of interment, the nature of the coffins to be received in the burial grounds provided under this Act, the time and mode of removing bodies, the notice to be given in respect of funerals, and generally as to all matters connected with the good order of such burial grounds, and the convenient exercise of the rights of interment therein; and such regulations shall be printed and published, and shall be fixed and continued on some conspicuous part of every such burial ground.

SECT. 24. *Board not to permit burials within* 200 *yards of any dwelling, or under or close to chapels.*] Provided always, and be it enacted, that the said board shall not permit any body to be buried in any burial ground provided under this Act, and not previously used as a cemetery, within two hundred yards of the nearest place on which any dwelling is erected, except only any dwelling or dwellings of such officer or officers of the said board as they may require to be resident on the spot for the care of any such burial ground; and no body shall be buried under any chapel in any such burial ground, nor within ten feet of the outer wall of such chapel (*d*).

SECT. 25. *Register of burials to be kept, and to be evidence, and subject to the regulations of* 6 & 7 *W.* 4, *c.* 86, *as to searches.*] And be it enacted, that all burials within any burial ground provided under this Act, as well in the part not consecrated as aforesaid as in the part so consecrated, shall be registered in regis-

(*d*) This clause will not affect the cemeteries already established, if they be purchased as burial grounds by the board. In the Cemeteries Clauses Act, 1847, *fifteen* feet from the outer wall of the chapel is the distance named.

ter books to be provided by the said board and kept for that purpose, according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in *England*, by the warden of such burial ground or other officer appointed by the said board to that duty, in which register books shall be distinguished in what parts of the burial ground, and whether in the portion consecrated as aforesaid or the portion not so consecrated of such ground, the several bodies the burials of which are entered in such register books are buried; and such register books shall be kept or indexed so as to facilitate searches for entries in such books in respect of bodies brought from the several parishes and places within the district (*e*); and such register books, or copies or extracts therefrom, shall be received in all courts as evidence of the burials entered therein; and copies or transcripts of such register books, signed by such warden or other officer as aforesaid, shall be from time to time sent to the registrar of the ecclesiastical court of the bishop of *London*, to be kept with the copies of the other register books of the parishes within his diocese; and the said register books, so far as respects searches to be made therein and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an Act passed in the seventh year of King *William* the Fourth, intituled

(*e*) The general board of health will prescribe the form and mode in which these registers shall be kept. The most convenient method would be to have a distinct register for each parish or place within the district, and a separate index for each such register, and then a general index of all the interments which take place within the burial ground. Or one general register may be kept and a double index made containing, first, the names of the deceased persons, second, the names of the parishes or places from whence their bodies were brought for interment.

An Act for registering Births, Deaths, and Marriages in England, so far as such regulations relate to register books of burials kept by any rector, vicar, or curate (*f*).

SECT. 26. *Certificate of registry of death, or coroner's certificate, to be delivered to officer appointed to keep burial registers.*] And be it enacted, that where the body of any person is buried in any burial ground provided under this Act, the certificate of the death of such person having been duly registered, or the coroner's certificate of his order for the burial of the body of such person (as the case may be), by the said Act of the seventh year of King *William* the Fourth required to be delivered to such minister or officiating person as therein mentioned, shall be delivered to the warden or other officer appointed to keep the register books of burials in such burial ground (*g*); and if any

(*f*) The 6 & 7 W. 4, c. 86, s. 3, enacts "that every rector, vicar, or curate, and every registrar, registering officer, and secretary, who shall have the keeping for the time being of any register book of births, deaths, or marriages, shall at all reasonable times allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same, on payment of the fee herein-after mentioned: that is to say, for every search extending over a period of not more than one year the sum of one shilling, and sixpence additional for every additional year, and the sum of two shillings and sixpence for every single certificate." It must be borne in mind that registration of the interment under this Act will not supersede the necessity for registering the death as heretofore.

(*g*) The following is the provision here referred to (6 & 7 W. 4, c. 86, s. 27), "Every registrar immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according to the form in the schedule to the Act, that such death has

body is buried in such burial ground for which no such certificate has been delivered to such warden or other officer as aforesaid, such warden or officer shall, within seven days next after the burial of such body, give notice of such burial to the registrar of the district in which the person whose body was so buried died; and every such notice shall contain the name and surname, sex, age, rank, profession or occupation, and the residence at the time of death (*h*) of the said person, or as many of such particulars as may be known to such warden or other officer (*i*); and such

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been duly registered, and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or to perform any religious service for the burial of the dead body, and if any dead body shall be buried for which no such certificate shall have been so delivered the person who shall bury or perform any funeral or any religious service for the burial shall forthwith give notice thereof to the registrar: Provided always, that the coroner, upon holding any inquest, may order the body to be buried, if he shall think fit, before registering of the death, and shall in such case give a certificate of his order in writing under his hand, according to the form in the schedule of the Act annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid; and every person who shall bury or perform any funeral or any religious service for the burial of any dead body for which no certificate shall have been duly made and delivered as aforesaid either by the registrar or coroner, and who shall not within seven days give notice thereof to the registrar, shall forfeit and pay any sum not exceeding 10*l.* for every such offence."

(*h*) If the residence at the time of death be not known, that fact should be so stated in the notice, and in such case it would be proper to specify the parish, place, or locality in which the dead body was found; for instance, the body may be found drowned in the river, and be unclaimed.

(*i*) It will be the duty of the warden or other officer to ascertain these particulars, by inquiry of the person having charge of the funeral or the parties accompanying the body to the grave.

warden or other officer, upon failure to give such notice within the time aforesaid, shall be subject to the forfeiture imposed by the said Act (*j*), on a person burying or performing any funeral or any religious service for the burial of any dead body for which no such certificate has been duly made and delivered, and not giving notice thereof as thereby required, and the provisions of the said Act for and with respect to the recovery and application of forfeitures thereby imposed shall be applicable to such forfeiture (*k*); and no person, save such warden or officer as aforesaid, shall in the case of any such burial ground be subject to such forfeiture for not giving notice of such burial to the registrar.

SECT. 27. *Board may provide houses for reception and care of bodies previously to interment.*] And be it enacted, that the said board may, at any time after the passing of this Act, build or otherwise provide, in such places as they think fit, houses for the reception and care of the bodies of the dead previously to and until interment, and make arrangements for the recep-

(*j*) Namely, a sum not exceeding 10*l.* for every offence.

(*k*) Under the 6 & 7 W. 4, c. 86, s. 45, fines and forfeitures imposed by that Act are to be recovered before any two justices of the peace for the county, city, or place where the offence shall have happened, upon the information and complaint of any person; and in the event of such fines and forfeitures not being paid on conviction, the same, along with the costs of the conviction, shall be levied by distress and sale of the goods and chattels of the offender, and for want of distress the justices may commit the offender to the common gaol or house of correction for the county, city, or place where the offender shall be committed, without bail or mainprize, for any term not exceeding one calendar month, and one moiety of the penalty shall go to the informer and the other moiety to the Queen.

tion and care of such bodies therein, and appoint fit officers for such houses of reception; and to carry into effect such arrangements, and for providing such houses of reception, the said board may purchase by agreement or take on lease such lands or buildings as they may think fit (*l*).

SECT. 28. *Board may make provision for funerals being conducted at fixed charges.*] And be it enacted, that for securing, in the cases of interments in the burial grounds provided under this Act, to persons having the care and conduct of the funerals, the means of having the same conducted according to a just and regulated scale of charges, the said board may from time to time invite and receive tenders for contracts for the undertaking of such funerals according to classes arranged with reference to the nature and amount of the matters and services to be furnished and rendered, but so that in respect of the lowest of such classes the funeral may be conducted with decency and solemnity; and every such tender shall specify the parish or place or several parishes or places from which the person proposing to become a contractor is willing to remove bodies, and the class or classes and number of funerals he is willing to undertake; and the said board may enter into such contracts with

(*l*) This is a most important provision as regards the poorer classes; in reference to which see Introduction, page xiii.

It will be optional with the surviving relative, or the parties in whose care a dead body shall be previous to interment, whether it shall be removed to a reception house; and it would seem that no charge is contemplated by the Act to be made for its reception therein. Section 30 provides for the appointment of medical or other officers, who, when the persons having the direction of the funeral shall so desire, are to cause the body of the deceased to be removed to a reception house.

any persons as they may think necessary (each of which contracts may extend to one parish or place or part of a parish or place within the district, or include more than one such parish or place), binding such contractors with the said board to undertake during specified terms or periods funerals of persons dying within the limits in such contracts respectively mentioned, or any class or number of such funerals, according to a fixed scale of payments, and with such stipulations as may appear to the said board necessary for insuring the decent performance of such funerals; and the said board may, if they so think fit, enter into distinct contracts for the furnishing and rendering by different contractors of the various matters and services requisite for the funerals in relation to which the said board are herein-before authorized to enter into contracts, and the said board shall publish notices of the scale of payments to be made for funerals undertaken, or matters or services to be furnished or rendered, by such contractors, and such other notices as the said board may think fit, for the information and convenience of persons desirous of having funerals conducted by such contractors; and upon notice by or on behalf of the persons having the care and direction of any such funeral of their desire to have the same conducted, or any matters or services requisite for the same furnished or rendered, as aforesaid, and of the class according to which they are desirous the same should be so conducted, furnished, or rendered, being given to any contractor who, according to the terms of his contract with the said board, may be liable to undertake such funeral, or to furnish or render such matters or services, such contractor and the party by or on behalf of whom such notice may be given shall respectively have the like rights and be subject to the

like liabilities in respect to the performance of such funeral, or the furnishing or rendering of such matters or services (as the case may be), and the payment for the same, as if such contractor had agreed with such party to undertake the funeral referred to in such notice, and to furnish and render all such matters and services, and of such nature and description, as by the scale fixed by his contract with the said board shall be prescribed in this behalf in respect of the class mentioned or referred to in such notice, or (as the case may be) to furnish or render the matters or services required by such notice according to such scale, in consideration of payment according to such scale (*m*).

SECT. 29. *Board of health may enter into contracts with railway companies for carrying out bodies, together with mourners, &c.*] And be it enacted, that it shall be lawful for the board of health and the directors of any railway company, if they shall see fit (*n*), to contract for the carrying out of bodies in properly constructed carriages on the line of railway of such company to any burial ground provided under this Act, and for the carrying to and from such burial ground of the mourners and attendants of the bodies so carried, at such prices and charges, and for such term

(*m*) The classes will refer to the position in life of the deceased, viz. gentry, tradesmen, artizans, labourers, or paupers. But it will be optional with the survivors whether they will employ the contractor or their own tradesmen to conduct the funeral.

(*n*) It will be optional with the railway directors to contract for the conveyance of funerals along their line of railway. Whether the contracts are to be made to apply only to those funerals which are conducted by the contractors of the general board of health, or to funerals conducted by other parties, would, it seems, be a matter in which the board can exercise their discretion.

of years, as may be agreed, and every contract so entered into by the directors of any railway company shall be binding on such company and on all future directors thereof, anything to the contrary in any Act or special Act of such company notwithstanding, and during the term of such contract such railway company shall carry as aforesaid any of the bodies to be removed to the burial grounds provided under this Act, and the mourners and attendants (where the persons having the direction of the funerals desire to have them so carried), at the rate of charge specified in such such contract: provided always, that the charges agreed and contracted for with the said board shall not prejudice such railway company as to their charges for carrying any bodies other than the bodies to be removed to the burial grounds provided under this Act, or as to their charges, for the general business of carrying ordinary passengers or things, any thing in any Act or special Act to the contrary notwithstanding.

SECT. 30. *Board may provide for removal, on request of relatives, of bodies to houses of reception.*] And be it enacted, that the said board may at any time after the passing of this Act appoint medical or other officers, who in the case of deaths within the district may, where the persons having the direction of the funeral of the deceased so desire, cause the body of the deceased to be decently removed to one of the houses for the reception of the dead provided under this Act (*o*).

SECT. 31. *Additional member and officers of board to be paid such salaries as treasury may appoint.*]

(*o*) See section 27.

And be it enacted, that there shall be paid to the member appointed under this Act of the said board the annual sum herein-after mentioned in that behalf (*p*), and to the assistant secretary, treasurer, and clerks, chaplains, wardens, and other officers and servants appointed for the purposes of this Act by the said board, such salaries, stipends, and wages as shall be from time to time appointed by the commissioners of Her Majesty's treasury (*q*).

SECT. 32. *Compensation to incumbents.*] And be it enacted, that to compensate incumbents for loss of fees the said board shall, in respect of the burial within the consecrated part of any burial ground provided under this Act of any body removed from any parish within the district (save where such body is buried at the expense of any union or parish), pay to a separate account to be kept by the treasurer of the said board, to be called "The Burial Service and Incumbents Compensation Fund," the sum of six shillings and twopence, and where such body is buried at the expense of any union or parish a sum not exceeding one shilling, and the board shall, out of the monies paid to the said account, pay the salaries of all the chaplains of the said board, and shall apply the residue of such monies, so far as the same will extend (*r*), in payment to the

(*p*) Namely, a salary not exceeding the annual sum of 1,200*l.* see s. 43.

(*q*) See sect. 42, as to the fund out of which these salaries shall be paid.

(*r*) The separate fund to be provided under this clause is to be chargeable, it will be seen, with two distinct classes of payments; the salaries of the chaplains of the new burial grounds, and compensation annuities to incumbents of parishes within the district. Should the fund prove insufficient for the former of these purposes, the deficiency will be made up by a rate, not exceeding 1*d.* in the

incumbent of every parish within the district in which interment is discontinued under this Act an annuity during his incumbency, of such an amount as the board, with the approbation of the commissioners of Her Majesty's treasury, shall fix as a just compensation for the loss of receipts in respect of burials, to be calculated on the average of the receipts in respect of burials by the incumbents of such parish during the five years next before the passing of this Act; and no incumbent shall be entitled, under any Act of parliament or otherwise, to any payment, save as herein provided (*s*), in respect of any interment under this Act in any cemetery purchased by the said board, or in respect of the removal of any body previously interred to any burial ground provided under this Act: provided always, that it shall be lawful for the commissioners of Her Majesty's treasury from time to time, upon any vacancy in the incumbency of any such parish, to reduce the amount of the annuity to be thenceforth payable as aforesaid to the incumbent of such parish, in case it appear to them, having regard to the duties of such incumbent, and the value of the living, independently of any annuity under this Act, just and expedient so to do; and the surplus, if any, from time to time of the monies paid to the said account, after satisfying all the purposes aforesaid, may, with the approbation of one of Her Majesty's principal

pound in any one year, levied upon the ratepayers within the district, under sect. 54. But as the residue or overplus of the fund only is to be applied in payment of compensation to the incumbents, if it proves insufficient for the payment of the chaplains in any one year, the compensation to the incumbents will cease until the fund becomes productive, and it will be a question whether the incumbents will be entitled to claim unpaid arrears caused by the unproductiveness of the fund in any one or more years.

(*s*) Namely, the annuity before referred to.

secretaries of state and of the bishop of the diocese, be applied by the said board in augmentation of the incomes of the incumbents or ministers of any new parishes, district parishes, or district chapelries formed within the several parishes from which such surplus may have arisen, and as near as may be according to the proportions in which such several parishes may have contributed to such surplus (*t*): provided always, that no income shall be augmented under this provision so as to exceed three hundred pounds a-year (*u*).

SECT. 33. *Compensation to clerks and sextons.*] And be it enacted, that for compensating clerks and sextons for the loss of fees and sums now received in respect of interments, the said board shall ascertain the yearly average during the five years ending on the day of the passing of this Act, in pursuance of any order under this Act (*v*), of the fees and sums received by the clerk and sexton of such parish in respect of interments in the church and burial ground of such parish,

(*t*) This will render necessary the keeping by the treasurer of very exact accounts of the respective parishes contributing to the fund by the number of burials.

(*u*) That is, no income of any one incumbency. If an incumbent holds two livings within the district, they may both be augmented to 300*l*. But inasmuch as the augmentation is permissive only, in the case of a double incumbency, the value of which exceeded 300*l*. a year, it is presumed that the secretary of state and diocesan would withhold their sanction to any augmentation in such a case.

(*v*) The words, "in pursuance of any order under this Act," as they stand here have no application, and must be read as surplusage. The original bill was amended by inserting "on the day of the passing of this Act," in lieu of "on the day from which interment is discontinued in any parish," and the omission to strike out the words "in pursuance of any order under this Act," appears to have been an oversight.

and (under any Act of parliament or otherwise) of interments in any cemetery of bodies removed from such parish; and the said board shall, with the approbation of the commissioners of Her Majesty's treasury, pay to any person who is at the time of the passing of this Act, and on the day from which interment is discontinued as aforesaid continues to be, clerk or sexton of such parish, and so long only as he continues to be such clerk or sexton, an annuity of such amount as may appear to the said board to be a just compensation for such average receipts as aforesaid of the clerk or sexton respectively of such parish, having regard to the duties, and payment (if any) in respect of duties, from which such clerk or sexton respectively is relieved by the discontinuance of interment (*x*); and all fees or payments accruing under any Act of parliament or otherwise to the clerk or sexton of any parish, after the time from which interment is under this Act ordered to be discontinued therein, in respect of interments in any cemetery of bodies removed from such parish, shall be paid over by such clerk or sexton to the said board, to be by them applied as other monies received by them under this Act (*y*); and after the purchase of any cemetery by the said board all

(*x*) Note the distinction between this provision and the one contained in the former clause. The approbation of the treasury to be obtained under this clause, is as to the payment of an annuity at all; not the amount of it, that being a matter for the exclusive consideration of the board. In the former clause the annuity is to be of such an amount as the board, *with the approbation* of the treasury, shall fix.

(*y*) Under the Cemeteries Act, 1847, the company is required on the burial of every body within the consecrated part of the cemetery, except where the body is buried at the expense of any parish or ecclesiastical district, or union of parishes for the relief of the poor, to pay to the clerk of the parish or ecclesiastical

such fees and payments in respect of interments therein shall cease to be payable: provided always, that where the said board provide employment under this Act for any sexton who would be entitled to any such annuity as aforesaid, such sexton shall not, in case the annual amount of the emoluments arising from such employment be equal to or exceed the amount of such annuity, be entitled to receive any payment in respect of such annuity for the time during which he continues in such employment and in the receipt of such emoluments, or in case the annual amount of such emoluments be less than the amount of such annuity, then such sexton shall be entitled to receive (for the time he continues in such employment and in receipt of such emoluments) in respect of such annuity the difference only between the annual amount of such emoluments and such annuity (*z*).

SECT. 34. *Compensation to be made for fees payable for parochial purposes.*] And be it enacted, that where fees or any portion of fees payable on interments in any burial ground or place of burial in which interments may be discontinued under the provisions of this Act are by law payable to the churchwardens or vestrymen of any

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district from which the body has been removed for burial, such sum, if any, as shall be prescribed for that purpose in the special Act of the company.

(*z*) If any sexton when entitled to an annuity accepts of employment under this Act, and ceases to be sexton, he will not be entitled to claim the continuance of the annuity should he cease to be so employed, for this annuity is only to be paid *so long as he continues to be sexton.*

Note also, that the annuity will cease with the first holder of it, and that it will not be continued to his successor, as is the case with the incumbency of the parish.

parish or trustees or other persons for or towards any parochial purpose, or the discharge of any debt or liability, the commissioners of Her Majesty's treasury shall direct payment to be made by the said board to such churchwardens, vestrymen, trustees, or other persons after discontinuance of interment in such burial ground or place of burial, under the provisions of this Act, as compensation for the loss of such fees or portion of fees, of an annuity of such amount and to be payable during such term as may appear to the commissioners of Her Majesty's treasury just, having regard to the sums received in respect of such fees or portion of fees and of any expenses from which such parish may be relieved by the discontinuance of interments under this Act, and to the purposes to which such fees or portion of fees were or was legally applicable, such loss to be calculated on the average of the sums so received, and of such expenses as aforesaid, during the five years next before the passing of this Act.

SECT. 35. *Debts incurred by parishes for purchase of burial grounds to be discharged by board where the parishes are not entitled to be compensated by annuity.*] And be it enacted, that where any burial ground or land for a burial ground for any parish has been purchased by any persons by law authorized in that behalf, and any debt incurred by or on behalf of such parish in respect of the purchase money of such ground or land, or of any money borrowed for payment thereof, or any annuities or annuity granted in respect of any such purchase money, shall at the time of the discontinuance under this Act of interment in such burial ground remain owing from or charged upon such parish, or upon any property thereof or rates to be raised therein, and no annuity shall be payable under

the provision herein-before contained, (*a*) to the churchwardens or other persons on behalf of such parish as compensation for the loss of any fees or portion of fees on interments in such burial ground, such parish and such property and rates respectively shall be indemnified by the said board against such debt, and all interest to accrue thereon after the time of such discontinuance of interment, and all sums to accrue payable after such discontinuance in respect of such annuities or annuity.

SECT. 36. *Compensation in respect of non-parochial burial grounds.*] And be it enacted, that where any order for the discontinuance of interment as aforesaid shall affect any burial ground other than the burial ground of any parish, compensation shall be made by the said board to all persons interested in such burial ground for the loss or damage which may be sustained by them by reason of the discontinuance of such interments as might lawfully have been made in such ground in case interment therein had not been discontinued under this Act, provided such persons shall within three calendar months after the time from which interment is, under such order as aforesaid, to be continued in such ground, state in writing to the said board the particulars of their claim for such loss or damage; and the expense which may be occasioned to any body or sect by the necessity of making other provision for such interments as might lawfully have been made in such ground shall be deemed loss or damage within this enactment, and may be claimed by

(*a*) See sect. 51, which together with this section, refers to extramural burial grounds already provided by some parishes, as St. James Westminster, St. Martin's-in-the-Fields, and some others, but which have since become *intra*mural.

the trustee or trustees, or a majority of the trustees, of such ground, though no profit or income would have been derived from such interments. (*b*)

SECT. 37. *Power to compensate individual rights in closed burial places by the grant of equivalent rights in the new grounds.*] And be it enacted, that where any vault or right of interment in any place of burial in which interment is discontinued under this Act has been acquired before the first day of *May* one thousand eight hundred and fifty, and is at the time of such discontinuance of interment vested in any person as private property, the said board may and shall, on application being made to them within six calendar months from the time from which interment is so discontinued, grant such vault or right of interment in any burial ground provided under this Act as may be a just equivalent for such first-mentioned vault or right (*c*).

SECT. 38. *Fee may, at the request of relatives, be paid to minister performing service on interments in unconsecrated ground.*] And be it enacted, that it shall be lawful for the said board, on the request of the relatives or other person having the care and direction

(*b*) Under this section the rights of private individuals in non-parochial burial grounds will be compensated; and if the parties cannot agree with the board of health upon the amount of compensation, recourse must be had to the Lands Clauses Consolidation Act 1845, under which the matter in dispute can be submitted to arbitration, or to a jury.

(*c*) See also sect. 17, which empowers the board of health in certain cases to grant licenses for the exercise of the right of interment in vaults and in burial grounds, notwithstanding they may have ordered interment to be discontinued in the particular burial ground.

of the funeral, to pay to the minister or person performing religious rites or service on the interment of any body in the unconsecrated portion of any burial ground provided under this Act (save where such body is buried at the expense of any union or parish), such fee not exceeding six shillings and two-pence, and when such body is buried at the expense of any union or parish such fee not exceeding one shilling, as the said board many think fit (*d*).

SECT. 39. *Money received by officers to be paid into the bank.*] And be it enacted, that all fees and sums which shall be received under this Act by the wardens or other officers or servants of the said board on account of the said board shall be by such wardens or officers receiving the same forthwith (*e*) paid to the treasurer of the said board, and by such treasurer forthwith (*e*) paid into the bank of *England*, to the credit of an account to be intituled "the account of the general board of health under the Metropolitan Interments Act, 1850."

SECT. 40. *Treasurer and others intrusted with money to give security for duly accounting for the same.*] And be it enacted, that before the treasurer or any officer or servant appointed under this Act shall enter upon any office or employment under the board by reason whereof he will or may be intrusted with the custody or control of money, the said board shall re-

(*d*) Note, that for burials in unconsecrated ground, the whole fee is to be paid to the minister, or other person performing the religious rite or ceremony on the interment of the body, and that it does not go to a distinct fund as in the case of other burials.

(*e*) By "forthwith" is to be understood within a reasonable time, which the board of health will doubtless define the limit of by their regulations.

quire and take from him such security for the faithful execution of such office or employment, and for duly accounting for all monies which may be intrusted to him by reason thereof, as they may think sufficient (*f*).

SECT. 41. *As to payments out of the bank.*] And be it enacted, that the money to be paid into the bank of *England* under this Act shall be paid out upon drafts or orders signed by the treasurer, and countersigned by two or more members of the said board.

SECT. 42. *Expenses under this Act to be defrayed out of monies received thereunder.*] And be it enacted, that the expenses of providing burial grounds, and the salaries and wages of the member to be appointed under this Act of the said board, and of all officers and servants of the said board appointed under this Act, the stipends of the chaplains under this Act, and all other expenses of the said board under this Act, inclusive of the compensations to be paid by them thereunder, shall be defrayed out of the fees and sums to be received by them under this Act, and in case such fees or sums be at any time insufficient to defray all such expenses, out of any rate or rates to be made under this Act (*g*).

SECT. 43. *Salary of additional member of board of health.*] And be it enacted, that the salary of the additional member of such board to be appointed and fixed as aforesaid shall not exceed the annual sum of

(*f*) It would seem that it was intended the board should have a discretion not only as to the *amount* but also as to the *nature* of the security to be taken.

(*g*) As to the fees to be authorized to be taken, see sect. 21. See also sect. 54 as to levying a rate.

twelve hundred pounds, and shall be defrayed out of the fees and sums received by the said board under this Act (*h*).

SECT. 44. *Fees, payments, and rates may be mortgaged.*] Provided always, and be it enacted, that it shall be lawful for the said board, for the purposes of defraying any expenses incurred or to be incurred by them in the execution of this Act, and with the approbation of the commissioners of her Majesty's treasury, to borrow and take up at interest any sums of money necessary for defraying any such expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the said board may mortgage and assign over to the persons by or on behalf of whom such sums are advanced all or any of the fees and payments to be received under this Act (*i*), and also the rates to be made and collected under this Act (*k*); and the respective mortgagees shall be entitled to a proportion of the fees, payments, and rates comprised in their respective mortgages according to the sums in such mortgages mentioned to have been advanced;

No priority amongst mortgagees.] and each mortgagee shall be entitled to be repaid the sum so advanced, with interest, without any preference over any other mortgagee or mortgagees by reason of any priority of advance or the date of his mortgage (*l*).

(*h*) 1,200*l.* is here fixed as the maximum salary of the additional member of the board, but that sum is also the minimum salary which is to be paid to him. See s. 31.

(*i*) See sect. 21.

(*k*) See sect. 54.

(*l*) As to the form of the mortgage. See s. 48, and sched. (C.)

SECT. 45. *Commissioners of public works acting under 5 & 6 Vict. c. 9, may make advances to the board.*] And be it enacted, that it shall be lawful for the commissioners acting in the execution of an Act passed in the second session of the fifth year of Her Majesty's reign, intituled, *An Act to authorize the advance of money out of the consolidated fund to a limited amount, for carrying on public works and fisheries and employment of the poor, and to amend the Acts authorizing the issue of exchequer bills for the like purposes*, and in the execution of any of the Acts recited in that Act, or of any Act or Acts for amending or continuing the same Acts or any of them, to make advances to the said board, upon the security of all or any of the fees, payments, and rates to be received or made and collected by the said board under this Act, and without requiring any further or other security than a mortgage of such fees, payments, and rates.

SECT. 46. *Money may be borrowed at lower rates of interest to pay off securities bearing a higher rate.*] And be it enacted, that if the said board can at any time borrow at a lower rate of interest than that secured by any mortgage previously made by them, and then outstanding and in force, it shall be lawful for them, with the approbation of the commissioners of Her Majesty's treasury, so to borrow accordingly, in order to pay off and discharge any of the securities bearing a higher rate of interest, and to charge the fees, payments, and rates which they are authorized to mortgage under this Act with payment of the sum so borrowed, together with the interest thereon, in such manner and subject to such provisions as are herein

contained with respect to other monies borrowed upon mortgage (*m*).

SECT. 47. *Power to borrow money to pay off former mortgages.*] And be it enacted, that if at the time appointed in any mortgage deed for payment of any principal money secured thereby the said board are unable to pay off the same, it shall be lawful for them, with the approbation of the commissioners of Her Majesty's treasury, to borrow such sum of money as may be necessary for the purpose of paying off the whole or any part of the said principal money, and to secure the repayment of the money so borrowed, and the interest to be paid thereon, in the same manner in all respects as in the case of money borrowed for defraying expenses incurred by the said board in the execution of this Act.

SECT. 48. *Form of mortgage.*] And be it enacted, that every mortgage authorized to be made under this Act shall be by deed duly stamped, truly stating the date, consideration, and the time of payment, and shall be sealed with the seal of the said board, and may be made according to the form contained in the schedule (C.) to this Act annexed, or to the like effect, or with such variations or additions in each case as the said board and the party advancing the money intended to be thereby secured may agree upon;

Register of mortgages.] and there shall be kept at the principal office of the said board a register of the mortgages under this Act; and within fourteen days after the date of any mortgage an entry shall be made

(*m*) This and the following clauses relating to mortgages have been adapted from the Commissioners Clauses Act, 1847, (10 & 11 Vict. c. 16.)

in the proper register of the number and date thereof, and of the names and descriptions of the parties thereto, as stated in the deed; and every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall for every such offence, on summary conviction thereof before two justices of the peace, be liable to a penalty not exceeding five pounds.

SECT. 49. *Repayment of money borrowed at a time agreed upon.*] And be it enacted, that the said board may, if they think proper, fix a time or times for the repayment of all or any principal monies borrowed under this Act, and the payment of the interest thereof respectively, and may provide for the repayment of such monies, with interest, by instalments or otherwise, as they may think fit; and in case the said board fix the time or times of repayment, they shall cause such time or times to be inserted in the mortgage deed; and at the time or times so fixed for payment thereof, such principal monies and interest respectively shall, on demand, be paid to the party entitled to receive the same accordingly; and if no other place of payment be inserted in the mortgage deed, the principal and interest shall be payable at the principal office of the said board.

SECT. 50. *Interest on mortgages to be paid half-yearly.*] And be it enacted, that, unless otherwise provided by any mortgage, the interest of the money borrowed thereupon shall be paid half-yearly;

Repayment of money borrowed when no time or place has been agreed upon.] and if no time be fixed in

the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of twelve months from the date of such deed, demand payment of the principal money thereby secured, with all arrears of interest, upon giving to the said board six calendar months previous notice for that purpose; and in the like case the said board may at any time pay off the money borrowed, on giving the like notice to the party entitled as aforesaid, or by advertisement in the "*London Gazette*;"

Interest to cease on expiration of notice to pay off a mortgage debt.] and if the said board have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then, at the expiration of such notice, all further interest shall cease to be payable thereon, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the said board fail to pay the principal and interest due at the expiration of such notice on such mortgage.

SECT. 51. *Account books to be open to mortgagees.*] And be it enacted, that the books of account of the said board shall be open at all seasonable times to the inspection of the mortgagees or transferees of mortgagees under this Act, with liberty to make extracts therefrom, without fee or reward; and any clerk or other person having the custody of such books, and refusing to allow such inspection or such extracts to be made, shall for every such offence, on summary conviction thereof before two justices of the peace, be liable to a penalty not exceeding five pounds.

SECT. 52. *Transfer of mortgages.*] And be it

enacted, that any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date, the names and descriptions of the parties thereto, and the consideration for the transfer; and such transfer may be according to the form contained in the schedule (D.) to this Act annexed, or to the like effect;

Register of transfers.] and there shall be kept at the principal office of the said board a register of the transfers of mortgages under this Act; and within thirty days after the date of such deed of transfer, if executed within the united kingdom, or within thirty days after its arrival in the united kingdom if executed elsewhere, the same shall be produced to the clerk or other person having the custody of such register, who shall, upon payment of the sum of two shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer; and upon any transfer being so registered the transferee, his executors, administrators, or assigns, shall be entitled to the full benefit of the original mortgage, and the principal and interest secured thereby; and every such transferee may in like manner transfer his estate and interest in any such mortgage; and no person, except the person to whom the same shall have been last transferred, his executors, administrators, or assigns, shall be entitled to release or discharge any such mortgage, or any money secured thereby.

SECT. 53. *Board may form a sinking fund for discharge of mortgages.*] And be it enacted, that in order to provide a fund for the discharge of any money which has been borrowed under the powers of

this Act, it shall be lawful for the said board from time to time to cause any money received by them under this Act, and which for the time being shall not be required for any other purposes of this Act, to be invested in the purchase of exchequer bills, or government stocks, funds, or securities, and from time to time to cause to be invested in like manner the interest and dividends thereof, so as to accumulate the same at compound interest, until the same can be applied for the discharge of such money borrowed, or for any other purposes of this Act.

SECT. 54. *After discontinuance of interment, in case of deficiency of other payments, board may order overseers to levy a rate.*] And be it enacted, that after interment has been ordered to be discontinued within the district or any part thereof, in case it appear to the said board that the fees and sums received by them (*n*) under this Act will be insufficient in any year to defray their expenses, and to provide for the payments in respect of monies borrowed under this Act, it shall be lawful for the said board, with the approbation of the commissioners of her Majesty's treasury and one of her Majesty's principal secretaries of state, to issue a warrant under their seal to the overseers of the poor of every parish, township, precinct, or place within the district (where interment has been ordered to be discontinued in the whole district), or the part thereof within which interment has been ordered to be discontinued, by which warrant they shall command the said overseers, out of the money collected for the relief of the poor in such parish, township, precinct, or

(*n*) Note, that the rate in aid cannot be made unless there be an actual deficiency of other payments to the board under the Act.

place, to pay the amount mentioned in the warrant for the purposes of this Act, or to levy such amount as a part of the rate for the relief of the poor in such parish, township, precinct, or place, and that the overseers shall pay over the amount mentioned in the warrant to the treasurer of the said board, within forty days from the delivery of such warrant to any one of the overseers (*o*):

Not to exceed 1*d. in the pound in any one year, according to the valuation for county rate.*] provided always, that the sum to be so paid for the purposes of this Act shall not exceed in the whole in any one year the rate of one penny in the pound (*p*) on the full and fair annual value of all property rateable for the relief of the poor within such parish, township, precinct, or place, such full and fair annual value to be computed according to the last valuation for the time being acted upon in assessing the county rate, where any county rate is assessed on such parish, township, precinct, or place; and the warrant shall specify the rate in the pound at which the sum mentioned therein shall be computed (*q*):

(*o*) In many parishes in the metropolis the poor rate is levied half yearly, and it may therefore sometimes happen that the overseers will be obliged to make a special rate to enable them to meet the demand within the forty days. The collection of an extra rate will, in a very large parish, such as St. Pancras or St. Mary-le-bone, entail considerable labour upon the officers who have to collect it. But see sect. 56.

(*p*) That is, to be paid by the overseers; but the ratepayers will be called upon for the cost of the collection in addition to the rate of one penny in the pound, if the money be collected along with or paid out of the poor rate.

(*q*) The sum to be mentioned in the warrant is the sum which is to be paid to the board by the overseers. The sentence would have been more clear, if instead of "shall be" had been inserted "has been" computed, for the sum *must* be computed before the warrant can be issued.

provided also, that the said board may issue such warrant as aforsaid to the overseers of any parish, township, precinct, or place, notwithstanding the exception from any order for discontinuance of interment of any burial ground or burial grounds, or right of burial in any burial ground or burial grounds, in or belonging to any such parish, township, precinct, or place, unless in such order as aforesaid any burial ground or burial grounds so excepted be declared to be continued for such parish, township, precinct, or place, in lieu of all rights of the parishioners and inhabitants to sepulture in the burial grounds provided under this Act.

SECT. 55. *Who to be deemed overseers within this Act.*] And be it enacted, that where any persons other than the overseers of the poor, by virtue of any office or appointment, are authorized and required to make and collect or cause to be collected the rate for the relief of the poor in any parish, township, precinct, or place whithin the metropolitan burial district, such persons, by whatsoever title they may be called, shall be deemed to be overseers of the poor within the meaning of this Act, and to be included under and denoted by the words "overseers of the poor," for all the purposes of this Act, as fully as if they were commonly called or known by the title of overseers of the poor (*r*).

SECT. 56. *Overseers shall collect the burial rate in the same manner as the poor rate.*] And be it enacted, that the overseers of the poor of every parish, town-

(*r*) Churchwardens are by virtue of their office overseers of the poor. But the designation would not include a collector or assistant overseer, those officers not being authorized to make a rate for the relief of the poor.

ship, precinct, or place within the metropolitan burial district, to whom any such warrant as aforesaid shall be issued, shall pay the amount mentioned in the warrant out of any money in their hands collected for the relief of the poor; and if there be no such money in their hands, or an insufficient sum, they shall levy the amount required as a part of the rate for the relief of the poor, and shall for that purpose proceed in the same manner, and have the same powers, remedies, and privileges, as for levying money for the poor (*s*); and such overseers shall pay to the said treasurer the amount mentioned in the warrant within the time specified for that purpose, and at the time of making any payment to the said treasurer shall deliver to him a note in writing signed by them, specifying the amount so paid, which note shall be kept by the said treasurer as a voucher for his receipt of that particular amount (*t*);

Receipt of the treasurer shall be a sufficient discharge.] and the receipt of the said treasurer, specifying the amount paid to him by the overseers, shall be a sufficient discharge to the overseers for such amount, and shall be allowed as such in passing their accounts with their respective parishes, townships, precincts, or places (*u*).

(*s*) The amount is to be levied, not as a burial rate, but as a rate for the relief of the poor; and although what is actually paid to the treasure must not exceed one penny in the pound, the overseers may levy a rate of a larger amount and apply what is over to the expenses of collection and the other general purposes to which a poor rate is applicable.

(*t*) The object to be attained by requiring the treasurer to keep a voucher signed by the overseers of his receipt of the sum paid to him is not very apparent.

(*u*) The overseers, except in the cases of the parishes of St. George, Hanover Square, St. James, Westminster, St. Giles and

SECT. 57. *Overseers, on nonpayment of the rate, shall be distrained upon.*] And be it enacted, that in case the amount ordered by such warrant as aforesaid to be paid by the overseers in any parish, township, precinct, or place in the metropolitan burial district shall not be paid to the said treasurer within the time specified for that purpose in the warrant (*v*), it shall be lawful for any justice of the peace, upon complaint by the said treasurer, to issue his warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers.

And in default of sufficient distress, the arrears may be re-levied on the parish.] And in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish, township, precinct, or place for the purposes of this Act, and shall be collected by the like methods.

SECT. 58. *Power to board, &c., to inspect county rates, &c.*] And be it enacted, that any member of the said board, or any person having an order for that purpose under the hands of two members of the said board, may inspect any county rate made or to be made for any county any part of which shall be situate within the metropolitan burial district, and may also inspect any returns concerning all or any of the parishes, townships, precincts, and places, whether parochial or extra-parochial, in the said district, delivered or to be delivered in pursuance of any of the Acts relating to county rates,

St. George, Bloomsbury, St. Marylebone, and St. Pancras, must pass their accounts before the district auditor appointed under the provisions of the 7 & 8 Vict. c. 101, s. 32.

(*v*) Namely within *forty* days.

and may take copies or extracts from any such rates or returns without payment of any fee or reward; and if any person having the custody of any such rate or return shall wilfully neglect or refuse to permit any such member or other person to inspect the same, or to take copies or extracts from the same, within two days after such order (*w*) shall have been produced and shown to him, or a copy thereof left at his usual place of abode, he shall for every such offence, on summary conviction thereof before two justices of the peace, be liable to a penalty not exceeding ten pounds.

SECT. 59. *Provision for assessing and levying rate in those places within the district where there is no poor rate.*] And whereas it is expedient to provide for those precincts and places in the metropolitan burial district in which no rate is made for the relief of the poor, or in which property may be deemed not to be rateable thereto: Be it therefore enacted, that the respective inhabitants and occupiers of all messuages, lands, tenements, and hereditaments in any precinct or place, whether parochial or extra-parochial, in the metropolitan burial district, although such messuages, lands, tenements, and hereditaments may not be rated to the relief of the poor, or may be deemed not to be rateable thereto, shall nevertheless be liable to contribute under this Act as if the property so inhabited or occupied were rateable and rated to the relief of the poor; and the said board may from time to time, by warrant under their seal, appoint a proper person to be an assessor, for the purpose of assessing the full and

(*w*) Note, that any member of the general board is entitled to inspect the rates and returns without the production of an order.

fair annual value of such property (*x*), and rating the same to a rate levied under this Act: Provided always, that the sum to be so levied shall not exceed in the whole in any one year the rate of one penny in the pound on the full and fair annual value of such property (*y*);

Mode of making the assessment.] and such assessor shall, within forty days after the delivery to him of the warrant of his appointment, make, sign, and return to the said board an assessment for the precinct or place named in such warrant; and the assessment shall be fairly written in a book, and shall specify, in different columns, the names of the respective inhabit-

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(*x*) No specific rule is laid down as to the manner in which "the full and fair annual value" of the property is to be ascertained, and it is probable therefore that the assessors may find some difficulty in the matter. As, however, the principle of the rate is to be the same in parochial and non-parochial places, it is to be supposed that the value is to be ascertained in the latter places in the same manner, and upon the same principle, as the county rate basis upon which the rate is levied in parochial places. Under the County Rates Act, 8 & 9 Vict. c. 111, s. 6, the "full and fair value" is to be taken to mean "the net value of any property, as the same is or may be required by law to be estimated for the purpose of assessing the rates for the relief of the poor." The Parochial Assessments Act, 6 & 7 W. 4, c. 96, s. 1, on the other hand, defines the "net annual value" to be the rent at which the premises might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses, if any, necessary to maintain them in a state to command such rent. Note also, that no property will be liable to be assessed but that which, in any parish or place maintaining its own poor, is liable to be rated to the relief of the poor.

(*y*) The rate of one penny in the pound in extra-parochial places is to include the expense of assessing and collecting, which expense is to be paid out of the rate collected after the assessment.

ants or occupiers of all messuages, lands, tenements, and hereditaments, the full and fair annual value of the same, and the amount of rate charged on the inhabitants or occupiers thereof, and, when the premises shall be unoccupied, the full and fair annual value thereof to let;

Allowance to assessors.] and every such assessor shall be allowed for his trouble and expenses such remuneration as the said board, with the approbation of the commissioners of her Majesty's treasury, shall direct, and the same shall be paid out of the amount of the rate which shall be collected after such assessment (*y*).

SECT. 60. *When assessment is made, notice thereof shall be given, and all persons included in the assessment shall have liberty to inspect it, &c.*] And be it enacted, that when such assessment shall have been allowed by the said board, public notice of such assessment, and of the place where the same may be inspected, shall be given by fixing such notice on the door of the church or chapel or some other conspicuous part of the precinct or place to which such assessment shall relate, upon the *Sunday* next or next but one after the same shall have been so allowed (*z*); and any person in whose custody such assessment may be (*a*) shall permit every inhabitant or occupier of property included in such assessment to inspect the same,

(*y*) See note (*y*), *ante*, p. 49.

(*z*) As to appeals against the assessment, see section 62.

(*a*) The previous section directs the assessor, within forty days after the delivery of the warrant of his appointment, to make and return his valuation to the general board of health; and that board will have the custody of it, unless they deposit it for inspection with some person residing in the precinct or place.

and to make any extracts therefrom, without payment of any fee or reward;

Penalty for refusing such inspection.] and if such person shall wilfully neglect or refuse to permit any such inhabitant or occupier to inspect such assessment, or to make any extract therefrom, he shall for every such offence, on summary conviction thereof before two justices of the peace, be liable to a penalty not exceeding five pounds.

SECT. 61. *Collection of the rate charged in such assessment.*] And be it enacted, that the said board shall from time to time nominate one or more person or persons for levying the amount of rate charged in every such assessment, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such rate, as if he or they were an overseer or overseers of the poor in a precinct or place rated to the relief of the poor, and shall pay over the amount of such rate to the treasurer of the said board (*b*), or in default thereof shall be proceeded against in the same manner as overseers are by this Act to be proceeded against for non-payment (*c*).

SECT. 62. *Appeal against assessment.*] Provided always, and be it enacted, that if any person who shall have paid the amount of rate charged upon him by the assessment made by an assessor appointed under

(*b*) The Act is silent as to when or how the money is to be paid over; whether in one sum, or from time to time as it is collected: doubtless the persons appointed to collect it will be required to do the latter.

(*c*) See section 57.

this Act (*d*) shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Act, or that it assesses his rateable property beyond its full and fair annual value (*e*), or that any person or persons is or are omitted out of such assessment, or that the property of any person or persons is assessed below its full and fair annual value, the person so aggrieved may appeal to the next court of general or quarter sessions which shall be holden for the county, corporation, or franchise in which the cause of appeal shall have arisen, not less than twenty-one days after public notice of such assessment shall have been given as herein-before mentioned (*f*); provided that the person so intending to appeal shall give to the said board a notice in writing of such appeal, and of the cause and matter thereof, ten clear days at the least before such sessions, and shall also, within three days after his notice of appeal, enter into a recognizance before some justice of the peace of the county, corporation, or franchise, with two sufficient sureties, conditioned to try such appeal at the said sessions, and to abide the order of the court thereupon, and to pay such costs as shall be by the court awarded;

(*d*) To be entitled to appeal it will be necessary that the person shall have paid the amount of rate charged upon him; but if he succeeds in his appeal, he will be entitled to have the money which he may have paid in excess repaid to him.

(*e*) As to the property liable to be rated, and the mode of ascertaining its full and fair annual value, see note to section 59.

(*f*) If the court of general or quarter sessions be held *within* twenty-one days after the notice required by section 60 has been given, it is difficult to see in what way an appeal against the assessment could be prosecuted; it could not be heard at *that* sessions, and the following sessions would not be the *next* sessions holden after public notice of the assessment had been given.

and in case such person shall appeal on the ground that any person or persons is or are omitted out of the assessment, or that the property of any person or persons is assessed below its full and fair annual value, the party so appealing shall not only give such notice of appeal to the said board, and enter into such recognizance as aforesaid, but shall also give a like notice of appeal to the person or persons so interested in the event of such appeal as aforesaid, and shall enter into a like recognizance within the times herein-before respectively mentioned; and the person or persons so interested shall, if he or they shall desire it, be heard upon the appeal;

The assessment may be altered to relieve the appellant, without altering any other part of it.] and the justices of the peace at such sessions, or some adjournment thereof, upon due proof of the notice having been given, and of the recognizance having been entered into as aforesaid, shall hear and determine the matter of the appeal in a summary manner, and shall make such order therein, with or without costs to either party (*g*), as the said justices shall think proper; and in case the said justices shall think the appellant entitled to relief, they shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him which he was not liable to pay to be returned to him; and in case he shall have appealed on the ground that any person or persons is or are omitted out of the assessment, the said justices may order the name or names of such person or persons to be inserted in the assessment, and to be therein rated at

(*g*) That is, the appellant or the respondent, whether the latter be a person assessed or omitted from the assessment, or the general board of health.

such amount as they shall deem just; and in case the appellant shall have appealed on the ground that the property of any person or persons is assessed below its full and fair annual value, the said justices may order the amount at which such person or persons is or are rated in the assessment to be altered in such manner as they shall deem just; and the proper officer of the court shall in each of the cases aforesaid forthwith amend the assessment accordingly, but the assessment shall not be quashed or altered with respect to any other persons named therein; and the determination of the justices at any such sessions or adjournment shall be final and conclusive.

SECT. 63. *Accounts to be kept.*] And be it enacted, that the said board shall cause books to be provided and kept, and full and correct accounts to be entered therein of all fees, payments, rates, and other monies received, levied, and recovered by the said board, and of the application thereof, distinguishing the times and purposes when and for which monies were received and paid;

Books may be inspected.] and the rate-payers and every mortgagee under this Act may at all reasonable times inspect and take copies of or extracts from such books, without fee or reward;

Penalty for refusing inspection.] and any clerk or other person having the custody of such books who shall not, on any reasonable demand (*h*) of any such rate-payer or mortgagee as aforesaid, permit him to inspect such books, or to take such copies or extracts as aforesaid, shall for every such offence, on summary

(*h*) A "reasonable demand" would be a demand made within the usual office hours. The rate-payer would not be bound to give a *reason* for his demand.

conviction thereof before two justices of the peace, be liable to a penalty not exceeding five pounds;

Balancing accounts.] and the said board shall, in the month of *January* in each year, cause their accounts to be balanced up to the thirty-first day of *December* of the preceding year;

Annual statement.] and the said board shall cause a full statement and account to be drawn out of the amount of all contracts entered into, and of all monies received and expended, by virtue of this Act, during such preceding year, under the several distinct heads of receipt and expenditure, and also of all arrears of rates and other monies then owing to the said board, and of all mortgages and other debts then owing by the said board;

Public notice of statement.] and the said board shall give public notice, by advertisement to be inserted not less than twice in each of two daily morning newspapers circulating in *London* and *Westminster*, that such statement and account is prepared and ready for the inspection of the rate-payers and mortgagees, and of the day fixed for auditing the accounts (*i*);

Statement, &c. to remain at the office for inspection.] And the said board shall allow such statement and account to remain for inspection at their principal office; and every such rate-payer and mortgagee may at all reasonable times before the day of audit inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the said board, on payment of a fee of one shilling for each inspection.

(*i*) See section 66 and note as to the accounts being audited by the commissioners for auditing public accounts. Who is to fix the day for auditing the accounts, whether those commissioners

SECT. 64. *Certain clauses of* 10 & 11 *Vict. c.* 65, *incorporated with this Act.*] And be it enacted, that the clauses of the "Cemeteries Clauses Act, 1847," "with respect to exclusive rights of burial and monumental inscriptions in the cemetery" (*k*), and "with respect to the protection of the cemetery," (*k*) shall be incorporated with this Act; but for the purposes of this Act the expression "the bishop of the diocese" where used in the said clauses "with respect to exclusive rights of interment and monumental inscriptions" shall mean the bishop of *London*; (*l*) and for the purposes of this Act the expression "the company" where used in the "Cemeteries Clauses Act, 1847," shall mean "the General Board of Health," and the expression "the clerk" where used in such Act shall include "the assistant secretary" appointed under this Act; and every person committing any offence in the said clauses "with respect to the protection of the cemetery" respectively mentioned shall forfeit the sum therein respectively mentioned to the said board, upon a summary conviction for such offence before two justices of the peace.

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or the general board of health, does not appear. The rate-payers, it would seem, will not be entitled to attend the audit and to object to the allowance of the accounts, as in the case of the accounts of parochial and union expenditure. But there will be no hinderance to any one aggrieved by any money appearing to have been unlawfully or improperly expended by the board, appealing in writing to the commissioners, who, in auditing the accounts, will doubtless follow the same system they pursue in regard to the audit of the public accounts.

(*k*) For the clauses of the Cemeteries Clauses Act, 1847, which are here referred to, see Appendix.

(*l*) This will give the bishop of London authority in respect to the matters referred to in the incorporated clauses, in cemeteries which may be established *out* of his diocese, and to which his jurisdiction will not otherwise extend.

SECT. 65. *Board to be assessed to rates in respect to burial grounds provided under this Act.*] And be it enacted, that the said board shall from time to time be assessed or rated to all county, parochial, or other local rates, for and in respect of any burial ground provided under this Act, and any building or place of burial therein, or other lands acquired by them for the purposes of this Act, in such and the same proportion as, but not at any higher value or improved rent than, such ground or lands was or were assessed or rated at for the year immediately preceding the taking and conversion of such ground or lands for the purposes of this Act (*m*).

SECT. 66. *Audit of accounts by auditors of public accounts.*] And be it enacted, that the accounts of the said board shall be examined and audited by the commissioners for auditing the public accounts of this kingdom, and such commissioners shall, in examining, trying, and auditing the accounts of the said board, have all the powers which are vested in them by law for examining, trying, and auditing the said public accounts, and the monies which may be received and become applicable for the purposes of this Act shall be deemed public monies, and may be recovered in case of default accordingly, but all monies so recovered shall be paid into the said account at the bank of *England* for the purposes of this Act. (*n*)

(*m*) If there are any houses on the land rated to the relief of the poor at the time when it is taken for the purposes of the cemetery the full and fair annual value of those houses will be taken into account.

(*n*) This clause as it originally stood empowered the treasury, in the month of January in each year, to appoint one or more fit persons to examine and audit the accounts for the preceding year. Instead of which the duty has been imposed upon the auditors for public accounts. As to the time of audit, see sect. 63, note (*i*).

SECT. 67. *Board may contract.*] And be it enacted, that the said board may enter into all such contracts as they may think fit for the erection and furnishing of chapels in the burial grounds provided under this Act, and in the case of chapels already built, for enlarging the same, and for enclosing and laying out such grounds, and for providing offices and houses of reception, and for any other matters in relation to the purposes of this Act in respect to which it may appear to the said board expedient to enter into contracts.

SECT. 68. *Purchases and works not to be made or done without previous sanction of the treasury.*] Provided always, and be it enacted, that no purchase, building, or work, where the purchase money or the estimated expense of such building or work exceeds one hundred pounds, shall be made, erected, or done, or any contract for the same entered into, by the said board, under this Act, without the approbation of the commissioners of Her Majesty's treasury.

SECT. 69. *Certain provisions of* 8 *&* 9 *Vict c.* 18, *as to cemeteries and compensation, incorporated with this Act.*] And be it enacted, that "the Lands Clauses Consolidation Act, 1845," except the provisions of that Act "with respect to lands acquired by the promoters of the undertaking under the provisions of the 'Lands Clauses Consolidation Act, 1845,' or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof," and "with respect to the provision to be made for affording access to the special Act by all parties interested," shall, so far as respects purchases by the said board of any cemetery mentioned in the schedule (B.) to this Act,

and compensation to persons interested in non-parochial burial grounds, be incorporated with this Act.

SECT. 70. *Certain provisions of same Act as to lands taken by agreement only incorporated with this Act.*] And be it enacted, that the said Lands Clauses Consolidation Act, except the provision of that Act specified and excepted in the section next herein-before contained, and except also the provisions of that Act "with respect to the purchase and taking of lands otherwise than by agreement," shall, so far as respects purchases of lands by agreement under this Act by the said board, be incorporated with this Act, and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the said board.

SECT. 71. *Receipt of company to be an effectual discharge.*] And be it enacted, that the receipt in writing under the common seal of the company for the purchase or consideration money for any cemetery belonging to such company which shall be purchased by the said board, or for any compensation payable to such company under this Act, shall be an effectual discharge to the said board for the same.

SECT. 72. *Power to dispose of lands not wanted.*] And be it enacted, that it shall be lawful for the said board to sell and dispose of any lands purchased by them under this Act, which it may appear to the said board may be properly sold or disposed of, and which may not have been consecrated or used for the burial of the dead; and for completing and carrying any such sale into effect, such board may make and execute a

conveyance of the lands sold and disposed of as aforesaid unto the purchaser, or as he shall direct, and such conveyance shall be under the seal of the said board; and the word "grant" in such conveyance shall have the same operation as by the said Lands Clauses Consolidation Act, is given to the same word in a conveyance of lands made by the promoters of the undertaking; and a receipt under the seal of the said board shall be a sufficient discharge to the purchaser of and any such lands for the purchase money in such receipt expressed to be received; and the money to arise from such sale shall be applied in like manner as other monies received under this Act; and the said board may let for year to year, and at such rent as the said board may think fit, any land which may have been purchased by and become vested in the said board under this Act, and which for the time being shall not be required for the purposes of this Act.

SECT. 73. *Annual reports and abstract of accounts to be made, and laid before parliament.*] And be it enacted, that the said board shall in the month of *March* in every year, send to one of her Majesty's principal secretaries of state a report of their proceedings, specifying the burial grounds which have been provided under this Act in the preceding year, and showing the portions of such burial grounds which are consecrated and intended to remain unconsecrated respectively, and stating also the names of the chaplains appointed under this Act, and of the officers and servants appointed and employed by the said board under this Act, showing those appointed for the general purposes of this Act and those appointed or employed for and in each such burial ground, and their respective duties, and stating the amounts

of the stipends payable to the said chaplains, and of the respective salaries and wages of such officers and servants, and stating the annuities payable under this Act by way of compensation to clerks and sextons, and to churchwardens or other persons on behalf of parishes, and the compensations payable under this Act in respect of non-parochial burial grounds, and the debts and annuities, if any, in respect of parochial burial grounds, to be discharged under this Act, and specifying all burial grounds and works commenced under the authority of the said board during the preceding year, and remaining in progress at the termination of such year; and the said board shall, after they have fixed a table of the fees and sums to be payable upon interments in the burial grounds provided under this Act, annex such table to their next report, and from time to time as the said board shall vary such table of fees and sums they shall annex such varied table to their next report; and the said board shall, with every report to be sent as aforesaid, send to such secretary of state an account in abstract, showing the receipt and expenditure under this Act for such preceding year, under the several distinct heads of receipt and expenditure, with the statement of the allowance of the said commissioners for auditing the public accounts, if they have allowed such accounts, or of the parts, if any, which they have disallowed of such accounts, and also a summary statement of all contracts entered into by the said board in such preceding year, and of the monies owing to and debts owing by the said board on the thirty-first day of *December* of such preceding year; and the said board shall also from time to time give to any one of such secretaries of state as aforesaid such information as he may require respecting their proceedings; and every such

report, account in abstract, and statement as aforesaid shall be laid before both houses of parliament within one month after the receipt thereof, if parliament be sitting, or if parliament be not sitting, then within one month after the next meeting of parliament.

SECT. 74. *Power to convey chapels in out-lying parochial burial grounds to trustees for the parishes in which they are situate.*] And be it enacted, that where any burial ground in which interment is discontinued under this Act belongs to any parish other than the parish within which the same is locally situate, it shall be lawful for the incumbent and churchwardens of the parish to which such burial ground belongs, with the consent of the vestry or persons possessing the powers of vestry for ecclesiastical purposes of or in such parish, and of the bishop of the diocese, to convey any chapel belonging to such parish and situate in or attached to such burial ground, and the site thereof, to any persons named by the incumbent and churchwardens of the parish within which the same is situate, with the consent of the vestry or persons possessing the powers of vestry of or in such parish for ecclesiastical purposes, and of the said bishop, and upon such trusts for such last-mentioned parish, and subject to such conditions to be performed on behalf of such parish, and with such provision for the appointment of new trustees, as to the said bishop may seem proper; and such conveyance shall be effectual to pass all the estate and interest vested in any persons in trust or on behalf of the parish to which such chapel and the site thereof belong; and after the execution of such conveyance all obligation on such last-mentioned parish, or any trustees or others on behalf thereof, to repair

such chapel or to pay any stipend to the minister thereof, or otherwise in relation to or in connexion with such chapel, shall cease (*o*).

SECT. 75. *Provision for dissolving cemetery companies.*] And be it enacted, that after payment by the said board of the purchase or consideration money for any of the cemeteries mentioned in the schedule (B.) to this Act, or after the payment to any cemetery company of the compensation for the loss or damage sustained by them by reason of the discontinuance of interment in their cemetery or cemeteries under the provisions of this Act, the cemetery company to which such purchase or consideration money or compensation may belong or be payable (unless some other cemetery in which interment is not then discontinued remain vested in them) shall continue only for the purpose of winding up the affairs, and realizing and distributing the assets thereof, and the satisfying any debts or engagements to or by the said company, and for the enforcement by law or in equity of such debts or engagements respectively; and the said company, as soon as conveniently may be after the payment of such purchase or consideration money or compensation shall convert into money, by sale or otherwise, the effects of the said company, and get in the debts and assets thereof, and distribute and apportion the monies thence arising, together with such purchase or consideration money or compensation, after satisfying all

(*o*) Although under this section the chapel may be conveyed, the burial ground to which it was attached would still remain the property of the parish. It is presumed that the section is intended to apply to chapels which are used for the purposes of religious worship, and not to those which were only used for the purposes of the burial of the dead.

the debts, engagements, and liabilities of the said company, to and among the several proprietors thereof according to their respective shares and interests therein, and from and immediately after such distribution and apportionment the said company shall be dissolved, and the receipt of every person who for the time being would have been entitled to give an effectual discharge for any dividends which might have become payable in respect of any share in any such cemetery or company in case this Act had not been passed, for the proportion of the monies which under this provision shall become payable in respect of such share, shall be an effectual discharge to such company and the directors thereof for the same.

SECT. 76. *Interpretation of terms.*] And be it enacted, that in the construction of this Act the following words and expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context; (that is to say,)

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Words importing the masculine gender only shall include females:

Words importing individuals shall include corporations:

The word "lands" shall include messuages, buildings, lands, and hereditaments:

The expression "the district" shall mean "the metropolitan burial district:"

The word "parish" shall include united parishes, and any distinct and separate parish, district parish, district chapelry, or consolidated district,

formed under the provisions of the Church Building Acts, and any new parish constituted by or under the proceedings of the ecclesiastical commissioners for *England*; and the word "consecrated" shall mean consecrated according to the rites of the united church of *England* and *Ireland*, and the word "unconsecrated" shall mean not so consecrated.

SECT. 77. *Short title.*] And be it enacted, that in citing this Act in other Acts, and in legal instruments and other proceedings, it shall be sufficient to use the expression "The Metropolitan Interments Act, 1850."

Schedule (A).

The Metropolitan Burial District.

The City of London and the liberties thereof, the Inner Temple and Middle Temple, and all other places and parts of places contained within the exterior boundaries of the liberties of the City of London.

In Middlesex.—The City and Liberties of Westminster.

The Parishes of St. Margaret and Saint John the Evangelist.

The Parish of St. Martin in the Fields.

The Parish of St. George Hanover Square.

The Parish of St. James.

The Parish of St. Mary-le-Strand, as well within the Liberty of Westminster as within the Duchy Liberty.

The Parish of St. Clement Danes, as well within the Liberty of Westminster as within the Duchy Liberty.

The Parish of St. Paul Covent Garden.

The Parish of St. Anne Soho.

Whitehall Gardens (whether the same be parochial or extra-parochial).

Whitehall (whether the same be parochial or extra-parochial).

Richmond Terrace (whether the same be parochial or extra-parochial).

The Close of the Collegiate Church of St. Peter.

The Parishes of St. Giles in the Fields and St. George Bloomsbury.
The Parishes of St. Andrew Holborn and St. George the Martyr.
The Liberty of Hatton Garden, Saffron Hill, and Ely Rents.
The Liberty of the Rolls.
The Parish of St. Pancras.
The Parish of St. John Hampstead.
The Parish of St. Marylebone.
The Parish of Paddington.
The Precinct of the Savoy.
The Parish of St. Luke.
The Liberty of Glasshouse Yard.
The Parish of St. Sepulchre.
The Parish of St. James Clerkenwell, including both Districts of St. James and St. John.
The Parish of St. Mary Islington.
The Parish of St. Mary Stoke Newington.
The Charterhouse.
The Parish of St. Mary Whitechapel.
The Parish of Christchurch Spitalfields.
The Parish of St. Leonard Shoreditch.
The Liberty of Norton Falgate.
The Parish of St. John Hackney.
The Parish of St. Matthew Bethnal Green.
The Hamlet of Mile End Old Town.
The Hamlet of Mile End New Town.
The Parish of St. Mary Stratford Bow.
The Parish of Bromley St. Leonard.
The Parish of All Saints Poplar.
The Parish of St. Anne Limehouse.
The Hamlet of Ratcliffe.
The Parish of St. Paul Shadwell.
The Parish of St. George in the East.

The Parish of St. John Wapping.
The Liberty of East Smithfield.
The Precinct of St. Catherine.
The Liberty of Her Majesty's Tower of London, consisting of—
The Liberty of the Old Artillery Ground.
The Parish of Trinity, Minories.
The Old Tower Precinct.
The Precinct of the Tower Within.
The Precinct of Wellclose.
The Parish of Kensington.
The Parish of St. Luke Chelsea.
The Parish of Fulham.
The Parish of Hammersmith.
Lincoln's Inn.
New Inn.
Gray's Inn.
Staple Inn.
That Part of Furnival's Inn in the County of Middlesex.
Ely Place.

In Kent.

The Parish of St. Paul Deptford.
The Parish of St. Nicholas Deptford.
The Parish of Greenwich.
The Parish of Woolwich.
The Parish of Charlton.
The Parish of Plumstead.

In Surrey.—The Borough of Southwark.

The Parish of St. George the Martyr.
The Parish of St. Saviour.
The Parish of St. John Horsleydown.

The Parish of St. Olive.
The Parish of St. Thomas.

The Parish of Battersea (except the Hamlet of Penge).
The Parish of Bermondsey.
The Parish of Camberwell.
The Parish of Clapham.
The Parish of Lambeth.
The Parish of Newington.
The Parish of Putney.
The Parish of Rotherhithe.
The Parish of Streatham.
The Parish of Tooting.
The Parish of Wandsworth.
The Parish of Christchurch.
The Clink Liberty.
The Hamlet of Hatcham in the Parish of Deptford.

Schedule (B.)

The several Cemeteries *established under the several Acts hereinafter mentioned; viz.—*

2 & 3 *W.* 4, *c.* cx.] An Act for establishing a general cemetery for the interment of the dead in the neighbourhood of the metropolis:

6 & 7 *W.* 4, *c.* cxxix.] An Act for establishing a cemetery for the interment of the dead southward of the metropolis, to be called the "South Metropolitan Cemetery:"

6 & 7 *W.* 4, *c.* cxxxvi.] An Act for establishing cemeteries for the interment of the dead, northward, southward, and eastward of the metropolis, by a company to be called "The London Cemetery Company:"

1 *Vict. c.* cxxx.] An Act for establishing a cemetery for the interment of the dead, westward of the metropolis, by a company to be called "The West of London and Westminster Cemetery Company:" And

4 & 5 *Vict. c.* lxiii.] An Act to establish a general cemetery for the interment of the dead in the parishes of Saint Dunstan Stepney and Saint Leonard Bromley in the county of Middlesex:

The Victoria Park Cemetery, in the parish of Saint Matthew Bethnal Green in the county of Middlesex: And

The Abney Park Cemetery, in the Parish of Saint Mary Stoke Newington in the county of Middlesex.

Schedule (C.)

Form of Mortgage.

Mortgage number (——).

By virtue of an Act passed in the —— year of the reign of Queen Victoria [*here insert the title of this Act*], the general board of health, in consideration of the sum of —— paid to the treasurer of the said board by *A. B.* of —— for the purposes of the said Act, do grant and assign unto the said *A. B.*, his executors, administrators, and assigns, all the monies arising and to arise from the several fees, payments,

and rates to be received and made under the said Act, to hold to the said *A. B.*, his executors, administrators, or assigns, from the day of the date hereof until the said sum of —— with interest at the rate of —— per centum per annum for the same, shall be fully paid satisfied; and it is hereby declared, that the said principal sum shall be repaid on the —— day of —— and that in the meantime the interest thereof shall be paid on the —— day of —— and the —— day of —— in every year.

In witness whereof the said board have hereunto set their seal this —— day of —— 18—.

SCHEDULE (D.)

Form of Transfer of Mortgage.

I *A. B.* of —— in consideration of the sum of —— pounds paid to me by *C. D.* of —— do hereby transfer to the said *C. D.*, his executors, administrators, and assigns, a certain mortgage number (—), bearing date the —— day of —— and made by the general board of health to —— for securing the sum of —— and interest [*or, if such transfer be by indorsement on the mortgage, insert, instead of the words after* "assigns," the within security], and all my property, right, and interest in and to the money thereby secured, and in and to the monies thereby assigned. In witness whereof I have hereunto set my hand and seal this —— day of —— 18—.

A. B. (L.S.)

APPENDIX.

CEMETERIES CLAUSES ACT, 1847.

(10 & 11 VICT. c. 65.)

Sect. 40. *Parts of the cemetery may be set apart for exclusive burial.—Monumental inscriptions.*] The company may set apart such parts of the cemetery as they think fit for the purpose of granting exclusive rights of burial therein, and they may sell, either in perpetuity or for a limited time, and subject to such conditions as they think fit, the exclusive right of burial in any parts of the cemetery so set apart, or the right of one or more burials therein, and they may sell the right of placing any monument or gravestone in the cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the cemetery.

Sect. 41. *Plan and book of reference to be kept, and be open to inspection.*] The company shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all the parts of the cemetery so set apart, and in which an exclusive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted by the company; and no place of burial, with exclusive right of burial therein, shall be made in the cemetery without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the clerk of the company.

Sect. 42. *Form of grant of burial in vault, &c. to be according to schedule.*] The grant of the exclusive right of burial in any part of the cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, may be made in the form in the schedule to this Act annexed, or to the

like effect, and where the company are not incorporated it may be executed by the company or any two or more of them.

Sect. 43. *Register of grants to be kept.*] A register of all such grants shall be kept by the clerk to the company, and within fourteen days after the date of any such grant an entry or memorial of the date thereof and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said clerk in such register; and such clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence, for every such entry or memorial; and the said register may be perused at all reasonable times by any grantee or assignee of any right conveyed in any such grant, upon payment of the prescribed sum, or if no sum be prescribed the sum of one shilling, to the clerk of the company.

Sect. 44. *Rights of burial, &c. to be assignable, or may be bequeathed by will.*] The exclusive right of burial in any such place of burial, shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the grantee, and may be assigned in his lifetime or bequeathed by his will.

Sect. 45. *Form of assignment.*] Every such assignment made in the lifetime of the assignor shall be by deed duly stamped, in which the consideration shall be duly set forth, and may be in the form in the schedule to this Act annexed, or to the like effect.

Sect. 46. *Assignments to be registered.*] Every such assignment shall, within six months after the execution thereof, if executed in *Great Britain* or *Ireland*, or within six months after the arrival thereof in *Great Britain* or *Ireland*, if executed elsewhere, be produced to the clerk of the company, and an entry or memorial of such assignment shall be made in the register by the clerk of the company, in the same manner as that of the original grant; and until such entry or memorial no right of burial shall be acquired under any such memorial; and for every such entry or memorial the clerk shall be entitled to demand sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

Sect. 47. An entry or memorial of the probate of every will by which the exclusive right of burial within the cemetery is bequeathed, and in case there be any specific disposition of such exclusive right of burial in the said will, an entry of such disposition shall, within six months after the probate of such will, be

made in the said register, in the same manner as that of the original grant, and until such entry no right of exclusive burial shall be acquired under such will; and for every such entry or memorial the clerk of the company shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

Sect. 48. *Vaults to be kept exclusively for purchasers of exclusive right.*] No body shall be buried in any place wherein the exclusive right of burial shall have been granted by the company, except with the consent of the owner for the time being of such exclusive right of burial.

Sect. 49. *No such grant to give the right of burial in consecrated ground to certain persons.*] No such grant as aforesaid shall give the right to bury within the consecrated part of the cemetery the body of any person not entitled to be buried in consecrated ground according to the rites and usage of the established church, or to place any monument, gravestone, tablet, or monumental inscription respecting any such body within the consecrated part of the cemetery.

Sect. 50. *Power to remove monuments improperly erected.*] The company may take down and remove any gravestone, monument, tablet, or monumental inscription which shall have been placed within the cemetery without their authority.

Sect. 51. *Bishop to have power to object to monumental inscriptions in consecrated part of of cemetery.*] The bishop of the diocese in which the cemetery is situated, and all persons acting under his authority, shall have the same right and power to object to the placing, and to procure the removal of any monumental inscription within the consecrated part of the cemetery, as he by law has to object to or procure the removal of any monumental inscription in any church or chapel of the established church, or the burial ground belonging to such church or chapel, or any other consecrated ground.

Sect. 58. *Penalty for damaging the cemetery.*] Every person who shall wilfully destroy or injure any building, wall, or fence belonging to the cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill therein or on any wall thereof, or wilfully destroy, injure or deface any monument, tablet, inscription, or gravestone within the cemetery, or do any other wilful damage therein, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Sect. 59. [*Penalty on persons committing nuisances in the cemetery.*] Every person who shall play at any game or sport, or discharge fire-arms, save at a military funeral, in the cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the cemetery, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Sect. 60. *Annual account to be made up, and a copy transmitted to the clerk of the peace, &c., and be open to inspection.*] The company shall every year cause an account to be prepared, showing the total receipt and expenditure of all monies levied by virtue of this or the special act for the year ending on the thirty-first day of December, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, certified by the chairman of the company, and duly audited, and shall send a copy of the said account, free of charge, to the clerk of the peace for the county in which the cemetery is situated, on or before the expiration of one month from the day on which such accounts end, which last-mentioned account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of one shilling for every such inspection; and if the company omit to prepare or send such account as aforesaid, they shall forfeit for every such omission the sum of twenty pounds.

Sect. 61. *Tender of amends.*] If any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender have been made, the defendant, by leave of the court where such action is pending, may at any time before issue joined pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

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